



Council Chambers
200 H Street
Antioch, CA 94509

Closed Session - 5:30 P.M.
Regular Meeting - 7:00 P.M.

ANNOTATED AGENDA

for

FEBRUARY 10, 2015

Antioch City Council
Regular Meeting

Including the Antioch City Council
acting as Successor Agency to the
Antioch Development Agency

Wade Harper, Mayor

Lori Ogorchock, Mayor Pro Tem

Mary Helen Rocha, Council Member

Tony Tiscareno, Council Member

Monica E. Wilson, Council Member

Arne Simonsen, City Clerk

Donna Conley, City Treasurer

Steven Duran, City Manager

Lynn Tracy Nerland, City Attorney

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Notice of Availability of Reports

This agenda is a summary of the actions proposed to be taken by the City Council. For almost every agenda item, materials have been prepared by the City staff for the Council's consideration. These materials include staff reports which explain in detail the item before the Council and the reason for the recommendation. The materials may also include resolutions or ordinances which are proposed to be adopted. Other materials, such as maps and diagrams, may also be included. All of these materials are available at the City Clerk's Office, located on the 3rd Floor of City Hall, 200 H Street, Antioch, CA 94509, during normal business hours for inspection and (for a fee) copying. Copies are also made available at the Antioch Public Library for inspection. Questions on these materials may be directed to the staff member who prepared them, or to the City Clerk's Office, who will refer you to the appropriate person.

Notice of Opportunity to Address Council

The public has the opportunity to address the Council on each agenda item. To address the Council, fill out a yellow Speaker Request form, available on each side of the entrance doors, and place in the Speaker Card Tray. See the Speakers' Rules on the inside cover of this Agenda. Comments regarding matters not on this Agenda may be addressed during the "Public Comments" section.

5:30 P.M. **ROLL CALL – CLOSED SESSIONS** for Council Members/City Council Members acting as Successor Agency to the Antioch Development Agency – **All Present**

PUBLIC COMMENTS for Closed Sessions – **None**

CLOSED SESSIONS:

- 1) **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION** – Initiation of litigation pursuant to California Government Code section 54956.9(d)(4): City as Successor Agency to the Antioch Development Agency: 1 matter. **Direction given to City Attorney to file lawsuit, 4/0-0**

- 2) **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: Michelle Fitzer, Denise Haskett and Glenn Berkheimer; Employee organizations: Operating Engineers Local Union No. 3 (OE3) and Public Employees Union Local 1. **Direction given to Labor Negotiators**

7:07 P.M. **ROLL CALL – REGULAR MEETING** for Council Members/City Council Members acting as Successor Agency to the Antioch Development Agency – **All Present**

PLEDGE OF ALLEGIANCE

1. PROCLAMATION

STAFF REPORT

- In appreciation to Pacific Gas & Electric Company for their support – "Holiday Tree Lighting Event" **Approved, 5/0**

Recommended Action: Motion to approve the proclamation.

ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS

ANNOUNCEMENTS OF BOARD AND COMMISSION OPENING (Deadline date to apply: 02/20/15)

- **PLANNING COMMISSION**

PUBLIC COMMENTS—Only unagendized issues will be discussed during this time

CITY COUNCIL COMMITTEE REPORTS

MAYOR'S COMMENTS

2. CONSENT CALENDAR for City /City as Successor Agency to the Antioch Development Agency

A. APPROVAL OF COUNCIL MINUTES FOR JANUARY 13 AND JANUARY 27, 2015

Approved, 5/0

Recommended Action: Motion to approve the minutes.

MINUTES

MINUTES

B. APPROVAL OF COUNCIL WARRANTS

Approved, 5/0

Recommended Action: Motion to approve the warrants.

STAFF REPORT

C. APPROVAL OF TREASURER'S REPORT FOR DECEMBER 2014

Approved, 5/0

Recommended Action: Motion to approve the report.

STAFF REPORT

D. CONSIDERATION OF BIDS FOR THE 2015 PAVEMENT MAINTENANCE, RUBBERIZED CAPE SEAL (P.W. 328-8)

Approved, 5/0

Recommended Action: It is recommended that the City Council award the 2015 Pavement Maintenance Rubberized Cape Seal project to the low bidder, American Pavement Systems, in the amount of \$1,865,571.25.

STAFF REPORT

E. COUNTRY HILLS DRIVE SANITARY SEWER MAIN REHABILITATION (P.W. 545-1)

Reso No. 2015/05 adopted, 5/0

Recommended Action: It is recommended that the City Council adopt the resolution accepting work, authorizing the Public Works Director/City Engineer to File a Notice of Completion and authorizing the Director of Finance to make a final payment of \$280,999.55 plus retention of \$14,789.45 to be paid 35 days after recordation of the Notice of Completion for the Country Hills Drive Sanitary Sewer Main Rehabilitation project.

STAFF REPORT

F. COMMUNITY DEVELOPMENT BLOCK GRANT DOWNTOWN ROADWAY PAVEMENT REHABILITATION (P.W. 678-6)

Approved, 5/0

Recommended Action: It is recommended that the City Council award the Community Development Downtown Roadway Pavement Rehabilitation project to the low bidder, MCK Services, Inc., in the amount of \$611,125.

STAFF REPORT

G. NINTH STREET ROADWAY IMPROVEMENTS (P.W. 687)

Approved, 5/0

Recommended Action: It is recommended that the City Council award the Ninth Street Roadway Improvements project to the low bidder, MCK Services, Inc., in the amount of \$645,330.

STAFF REPORT

CONSENT CALENDAR for City /City as Successor Agency to the Antioch Development Agency – Continued

H. RAW WATER PIPELINE INSPECTION AND ASSESSMENT (P.W. 689)

Approved, 5/0

Recommended Action: It is recommended that the City Council approve the proposal and authorize the City Manager to sign an agreement with Brown and Caldwell for engineering services related to the Raw Water Pipeline Inspection and Assessment project in the amount of \$364,074. This includes all three phases of work.

STAFF REPORT

I. CARD ROOM ORDINANCE (Introduced on 01/13/15)

Ord. No. 2095-C-S adopted, 5/0

Recommended Action: It is recommended that the City Council adopt the Ordinance amending sections 5-4.02, 5-4.03, 5-4.07 and 5-4.14 of the Antioch Municipal Code regarding the number of card rooms in Antioch and procedures for Card Room Licenses.

STAFF REPORT

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

J. RECOGNIZED OBLIGATION PAYMENT SCHEDULE (15-16A) FOR THE SUCCESSOR AGENCY TO THE ANTIOCH DEVELOPMENT AGENCY OF THE CITY OF ANTIOCH

SA Reso No. 2015/16 adopted, 4/0

Recommended Action: It is recommended that the Successor Agency to the Antioch Development Agency of the City of Antioch adopt the resolution approving the Recognized Obligation Payment Schedule for the period of July 2015 through December 2015 (ROPS 15-16A).

STAFF REPORT

PUBLIC HEARING

3. ORDINANCE DEFINING AND ESTABLISHING ZONING REGULATIONS FOR TOBACCO AND PARAPHERNALIA RETAILERS

Recommended Action: It is recommended that the City Council take the following actions:

1. Approve by motion the reading of the ordinance by title only; and
To 02/24/15 for adoption, 5/0;
With direction to City Attorney to bring back additional ordinance placing a cap on tobacco retailers and reducing cap as businesses close
2. Introduce the Ordinance defining and establishing zoning regulations for Tobacco and Paraphernalia retailers. The Planning Commission recommended approval of this ordinance on February 4, 2015 by a vote of 4-0 with one Commissioner absent and two vacant positions.

STAFF REPORT

PUBLIC HEARING – Continued

4. ORDINANCES TO ADDRESS BINGO OPERATIONS AND ZONING

Recommended Action: It is recommended that the City Council hold a public hearing and take the following actions before the moratorium expires:

1. Approve by motion the reading of the ordinances by title only;
**To 02/24/15 for adoption, 5/0;
With direction to City Attorney to bring back an additional ordinance with an administrative process to allow additional uses within the week,**
2. Introduce the Ordinance amending Chapter 15 to Title 5 of the Antioch Municipal Code in its entirety to establish regulations for the operation of bingo games; and
To 02/24/15 for adoption, 5/0
3. Introduce the Ordinance adding Section 9-5.3838 to the Antioch Municipal Code to establish zoning regulations for the operation of bingo games. The Planning Commission recommended approval of this ordinance on February 4, 2015 by a vote of 4-0 with one Commissioner absent and two vacant positions.

STAFF REPORT

COUNCIL REGULAR AGENDA

5. PLANNING COMMISSION APPOINTMENT FOR ONE PARTIAL-TERM VACANCY EXPIRING OCTOBER 2017

Appointed Martha Parsons, Term expiring October 2017, 5/0

Recommended Action: Motion to receive and file the applications, and the Mayor nominate and the Council appoint one member to the Planning Commission.

STAFF REPORT

6. CONTRA COSTA TRANSPORTATION AUTHORITY (CCTA) – CITIZENS ADVISORY COMMITTEE (CAC) VACANCY FOR ONE PARTIAL-TERM APPOINTMENT EXPIRING AUGUST 2017

Appointed Millard Larkin, II, Term expiring August 2017, 5/0

Recommended Action: It is recommended that the City Council receive and file the application and that the Mayor nominate and Council appoint one member to the Contra Costa Transportation Authority – Citizens Advisory Committee to represent the City of Antioch.

STAFF REPORT

7. FISHING PIER PAVILION (P.W. 99-A5)

Recommended Action: It is recommended that the City Council take the following actions:

- 1) Authorize the Director of Finance to amend the 2014-2015 Capital Improvement Budget for the Fishing Pier Pavilion to \$108,000 and increase the contract with S.R.P. Company to \$96,766.93.
**Approved, AND
Reso No. 2015/06 adopted, 5/0**
- 2) Adopt the resolution accepting work, authorizing the Public Works Director/City Engineer to File a Notice of Completion and authorizing the Director of Finance to make a final payment of \$47,258.63 to S.R.P. Company, plus retention of \$4,838.35 to be paid 35 days after recordation of the Notice of Completion.

STAFF REPORT

COUNCIL REGULAR AGENDA – Continued

8. UPDATES TO THE CITY COUNCIL AGENDA TEMPLATE

Direction provided to staff on the following:

- 1) **MOMENT OF SILENCE** – not to be placed on the agenda, 4/1-H
- 2) **PUBLIC COMMENTS** – as proposed, 5/0
- 3) **CONSENT CALENDAR** – no added language to agenda; keep information in “Speaker Rules” listed behind Agenda Cover, (attached as “Exhibit 1”) 5/0
- 4) **COUNCIL COMMUNICATIONS AND FUTURE AGENDA ITEMS** – Council Members report out various activities and any Council Member, **with a motion, a second and three or more votes**, may place an item for discussion and direction on a future agenda.

*Direction to strike out “with a motion, a second and three or more votes” and add “Timing determined by Mayor and City Manager – no longer than 6 months”.
With these changes, the title will read:*

“COUNCIL COMMUNICATIONS AND FUTURE AGENDA ITEMS – Council Members report out various activities and any Council Member, may place an item for discussion and direction on a future agenda. *Timing determined by Mayor and City Manager – no longer than 6 months.”*

5/0

Recommended Action: It is recommended that the City Council approve staff’s recommended updates to the City Council Agenda template or direct staff as to other changes to the City Council Agenda.

STAFF REPORT

STAFF REPORT

PUBLIC COMMENT

STAFF REPORT

STAFF COMMUNICATIONS

COUNCIL COMMUNICATIONS

ADJOURNMENT – 9:46 p.m.



**IN RECOGNITION OF
PACIFIC GAS & ELECTRIC FOR THEIR SUPPORT
OF THE HOLIDAY DE LITES EVENT
FEBRUARY 10, 2015**

WHEREAS,
*the City of Antioch has not had the resources to fund the Holiday De Lites Event
for several years; and*

WHEREAS,
*the Community has the desire to have celebratory events occur despite
economic challenges; and*

WHEREAS,
*with the assistance of business sponsors like Pacific Gas & Electric, a group of
Community members known as Celebrate Antioch have been successful in hosting
events that were discontinued during the economic downturn; and*

WHEREAS,
*Pacific Gas & Electric was the major sponsor for the Holiday De Lites event in 2014,
in particular the all important tree-lighting aspect; and*

WHEREAS,
*without the support of Pacific Gas & Electric this event would not have
been possible in 2014.*

NOW, THEREFORE, I, MAYOR WADE HARPER,
*do hereby recognize and thank Pacific Gas & Electric for their support of
Holiday De Lites.*

February 10, 2015

WADE HARPER, Mayor

**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.

**January 13, 2015
Council Chambers**

6:30 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: Michelle Fitzer, Denise Haskett and Glenn Berkheimer; Employee organizations: Operating Engineers Local Union No. 3 (OE3) and Public Employees Union Local 1.

City Attorney Nerland reported the City Council had been in Closed Session and gave the following report: **#1 CONFERENCE WITH LABOR NEGOTIATORS**, Direction was given to the Labor Negotiators.

SPECIAL MEETING/CLOSED SESSION ON JANUARY 6, 2015 – City Attorney reported out that no action was taken on the closed session items discussed by the City Council at the Special/Closed Session Meeting held on January 6, 2015.

Mayor Harper called the meeting to order at 7:10 P.M., and City Clerk Simonsen called the roll.

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

PLEDGE OF ALLEGIANCE

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

ANNOUNCEMENTS OF BOARD AND COMMISSION OPENINGS

City Clerk Simonsen announced the following Board and Commission openings:

- *Planning Commission: One (1) vacancy; deadline date is January 16, 2015*
- *Contra Costa Transit Authority-Citizen Advisory Committee: One (1) vacancy; deadline is January 16, 2015*

He reported applications would be available online at the City’s website and at the City Clerk’s and Deputy City Clerks offices.

2A.01

02-10-15

ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS

Parks and Recreation Director Kaiser announced the San Francisco Giants would be displaying their World Series trophies from 4:00 P.M. - 6:00 P.M. on January 27, 2015 at Prewett Park Community Center.

J.R. Wilson, representing Delta Veterans Group, announced they had obtained a building on West 10th Street and would name the building in memory of Sergeant John D. Aragon. He recognized Councilmember Wilson for assisting in their efforts and stated they would be working with service organizations to establish a scholarship for Antioch High School students.

Velma Wilson announced a Dr. Martin Luther King Jr. birthday celebration would be held on January 19, 2015 at Antioch High School Beede Auditorium and the East County NAACP Prayer Breakfast honoring Dr. Martin Luther King Jr. would be held on January 19, 2015 at St. Mark at Bethel Church in Pittsburg.

PUBLIC COMMENTS

Laura Stewart, Antioch resident, announced Mayor Harper was being recalled.

Rich Buongiorno, Antioch resident, questioned why the City had not publicized property tax revenue received in 2014 and why employee furloughs were not eliminated, at that time.

Joy Motts representing CRAWDADS, Rivertown Preservation Society, and the Celebrate Antioch Foundation gave a history of their efforts to develop a proposal for the vacant property at the corner of 2nd and A Streets. She reiterated their request for the City to agendize the formation of a subcommittee and a discussion on the topic.

Donald Bright, Antioch resident, stated he was aligned with Rivertown Preservation Society and the Celebrate Antioch Foundation gave a history of their proposal for the vacant property at the corner of 2nd and A Streets. He urged the City respond to their requests, as soon as possible.

Fred Hoskins, spoke in opposition to the recall of Mayor Harper and suggested the City improve communication with the public.

Loretta Sweatt, Antioch resident, congratulated the City Council on the election results and thanked them for appointing her to the Economic Development Commission.

Gil Murillo, Antioch resident, suggested the City Council work with the School District to develop programs for the youth.

Karen Kops, President of H.A.R.P., requested an update on an animal cruelty investigation for an incident that occurred on December 3, 2014. She requested resources be made available, if the incident had not been investigated.

Lawrence A. Rasheed, founder of Greatness Rediscovered in Our Time (G.R.I.O.T.), announced a Martin Luther King National Mentoring Day event would be held from 9:30 A.M. – 2:00 P.M. on January 31, 2015 at the Delta Bay Church of Christ in Antioch. He requested the City's endorsement and support of the event.

COUNCIL SUBCOMMITTEE REPORTS

Councilmember Ogorchock reported on her attendance at the Mello Roos oversight committee meeting.

Councilmember Wilson reported on her attendance at the Mello Roos oversight committee meeting and announced Dallas Ranch Middle School would be hosting a solar power grand opening from 3:00 P.M. – 4:00 P.M. on February 4, 2015.

MAYOR'S COMMENTS

Mayor Harper reported on his attendance at the Mayor's Conference and recognized everyone who assisted in organizing the event. He also reported on his attendance at Christmas and Kwanzaa celebrations and stated he had been preparing for the Dr. Martin Luther King Jr. event. He announced he had taught a leadership seminar and attended the following events; County Hazmat Commission meeting, Church at Antioch grand-opening, Eagle Scout award ceremonies, and Antioch Unified School District meeting.

City Clerk Simonsen congratulated Mayor Harper on his election as vice chair of Mayor's conference.

- 1. COUNCIL CONSENT CALENDAR for City /City as Successor Agency/Housing Successor to the Antioch Development Agency/Antioch Public Financing Authority**
- A. APPROVAL OF COUNCIL MINUTES FOR DECEMBER 9, 2014 AND DECEMBER 16, 2014**
- B. APPROVAL OF COUNCIL WARRANTS**
- C. APPROVAL OF TREASURER'S REPORT FOR NOVEMBER 2014**
- D. ORDINANCE 2094-C-S MESSAGE REGULATIONS (*Introduced on 12/16/14*)**
- E. STANDBY CITY COUNCIL MEMBERS**

- F. CITY OF ANTIOCH COMPREHENSIVE ANNUAL REPORT FOR THE FISCAL YEAR ENDED JUNE 30, 2014
- G. SINGLE AUDIT REPORTS FOR THE FISCAL YEAR ENDED JUNE 30, 2014
- H. RESOLUTION NO. 2015/01 MAINTENANCE SERVICE CENTER FUELING SYSTEM IMPROVEMENTS (P.W. 143-Q)

Antioch Public Financing Authority

- I. ANTIOCH PUBLIC FINANCING AUTHORITY – BASIC FINANCIAL STATEMENTS AND INDEPENDENT AUDITORS’ REPORT FOR THE YEAR ENDED JUNE 30, 2014

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

Item E – Fred Hoskins, Antioch resident, spoke in opposition to the City Council assigning Standby City Council Members.

City Attorney Nerland presented the staff report dated January 13, 2015 and clarified the process of appointing Standby City Council Members had been in place for years.

Allen Payton, Antioch resident, requested the spelling of Mr. Manuel’s and Mr. Soliz’s last names be corrected. He voiced his appreciation to Councilmember Ogorchock’s for nominating him as a Standby City Council member.

In response to Mr. Payton, Councilmember Rocha clarified she was nominating Louie Rocha Jr. as a Standby City Council member.

On motion by Councilmember Rocha, seconded by Councilmember Tiscareno, the Council unanimously appointed the nominated Standby Council Members.

PUBLIC HEARING

- 2. PDP-14-07 – LAUREL RANCH PRELIMINARY DEVELOPMENT PLAN – STRACK FARMS LLC REQUESTS REVIEW OF A PRELIMINARY DEVELOPMENT PLAN, WHICH IS NOT AN ENTITLEMENT, FOR THE DEVELOPMENT OF APPROXIMATELY 191 SINGLE FAMILY HOMES ON APPROXIMATELY 54 ACRES. THE PROJECT SITE IS LOCATED TO THE EAST OF THE CURRENT TERMINUS OF LAUREL ROAD AND TO THE WEST OF THE HIGHWAY 4 BYPASS (APN 053-060-031)

Director of Community Development Wehrmeister presented the staff report dated January 13, 2015 recommending the City Council provide feedback to the applicant and staff regarding the Strack Farms LLC preliminary development plan, which is not an entitlement, for the development of approximately 191 single family homes on approximately 54 acres located to the east of the current terminus of Laurel Road and to the west of the Highway 4 Bypass, and provide direction to the applicant for the Final Development Plan submittal.

Mayor Harper opened the public hearing.

Aaron Ross Swain, representing Richland Communities, gave an overhead presentation which included a property description, initial land plan, revised land plan, architecture and project highlights.

Councilmember Ogorchock expressed concern there was not adequate outdoor play space for children living in the private lane neighborhood.

Councilmember Tiscareno voiced his support for the project incorporating the Helmets to Hardhats program and a local hire/project labor agreement.

Councilmember Rocha suggested the applicant provide public transit access.

Hilda Parham, Antioch resident, questioned if the private lane neighborhood would have sufficient parking and expressed concern for the negative impact of the project on local schools. She voiced her support of an owner occupancy requirement.

Tonya Ward, Antioch resident, stated she was opposed to the project due to the increase in population and the impact it would have on increased traffic and crime.

Allen Payton, Antioch resident, stated there was an excessive amount of small lots and noted he felt there was an ample amount of affordable housing in Antioch. He questioned if there would be a separate Homeowners Association for each street.

Gil Murillo, Antioch resident, stated he supported an owner occupancy requirement and urged the City Council to evaluate similar projects to determine the success of this type of development.

Aaron Ross Swain clarified both product types would have sufficient area to park four vehicles. and parking would be restricted along the edges of the private lanes. He stated they had met with the school district who indicated student generation from the project had been contemplated in their master facilities plan and it would not exceed a threshold in which the schools could no longer operate at normal capacity.

Councilmember Tiscareno requested the applicant provide documentation regarding laws pertaining to an owner occupied restriction.

Mayor Harper requested documentation from the school district regarding the projects impacts.

Councilmember Rocha requested a list of similar projects in nearby communities.

Mayor Harper closed the public hearing.

In response to Council, Director of Community Development Wehrmeister clarified the project would generate the need for .5 to .75 police officers, which it would need to finance annually. Additionally, she noted the project would not generate the need for new school facilities and was mandated by state law to pay school impact fees. She stated she would provide a list of small lot developments built in neighboring communities to Councilmembers.

**3. ISSUANCE AND SALE OF CITY OF ANTIOCH PUBLIC FINANCING AUTHORITY
LEASE REVENUE BONDS, SERIES 2015A**

Finance Director Merchant presented the staff report dated January 13, 2015 recommending the City Council adopt the resolution approving the issuance and sale by the City of Antioch Public Financing Authority of not to exceed \$25,000,000 aggregate principal amount of Lease Revenue Refunding Bonds (Municipal Facilities Project), Series 2015A; authorizing the forms of and directing the execution and delivery of a trust agreement, a site lease, a facility lease, a bond purchase agreement, and a continuing disclosure agreement; approving form of and distribution of a preliminary official statement and official statement; appointing bond and disclosure counsel for such refinancing; and authorizing taking of necessary actions and execution of necessary certificates in connection therewith.

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

RESOLUTION NO. 2015/02

On motion by Councilmember Tiscareno, seconded by Councilmember Wilson, the City Council unanimously adopted the resolution approving the issuance and sale by the City of Antioch Public Financing Authority of not to exceed \$25,000,000 aggregate principal amount of Lease Revenue Refunding Bonds (Municipal Facilities Project), Series 2015A; authorizing the forms of and directing the execution and delivery of a trust agreement, a site lease, a facility lease, a bond purchase agreement, and a continuing disclosure agreement; approving form of and distribution of a preliminary official statement and official statement; appointing bond and disclosure counsel for such refinancing; and authorizing taking of necessary actions and execution of necessary certificates in connection therewith.

COUNCIL REGULAR/ANTIOCH PUBLIC FINANCING AUTHORITY AGENDA

**4. ISSUANCE AND SALE OF CITY OF ANTIOCH PUBLIC FINANCING AUTHORITY
LEASE REVENUE BONDS, SERIES 2015A**

Finance Director Merchant presented the staff report dated January 13, 2015 recommending the City of Antioch Public Financing Authority adopt the resolution approving the issuance and sale by the City of Antioch Public Financing Authority of not to exceed \$25,000,000 aggregate principal amount of Lease Revenue Refunding Bonds (Municipal Facilities Project), Series 2015A; authorizing the forms of and directing the execution and delivery of a trust agreement, a site lease, a facility lease, a bond purchase agreement, and a continuing disclosure agreement; approving form of and distribution of a preliminary official statement and official statement; appointing bond and disclosure counsel for such refinancing; and authorizing taking of necessary actions and execution of necessary certificates in connection therewith.

RESOLUTION NO. 2015/03

On motion by Councilmember Tiscareno, seconded by Councilmember Rocha, the City Council unanimously adopted the resolution approving the issuance and sale by the City of Antioch Public Financing Authority of not to exceed \$25,000,000 aggregate principal amount of Lease Revenue Refunding Bonds (Municipal Facilities Project), Series 2015A; authorizing the forms of and directing the execution and delivery of a trust agreement, a site lease, a facility lease, a bond purchase agreement, and a continuing disclosure agreement; approving form of and distribution of a preliminary official statement and official statement; appointing bond and disclosure counsel for such refinancing; and authorizing taking of necessary actions and execution of necessary certificates in connection therewith.

5. PARKS AND RECREATION COMMISSION TERM ASSIGNMENTS

Park and Recreation Director Kaiser presented the staff report dated January 13, 2015 recommending the Mayor assign and the City Council approve the term assignments for Commissioners Lori Cook and Beverly Knight who were appointed to the Parks and Recreation Commission on November 25, 2014.

Mayor Harper recommended the following term assignments; Beverly Knight to April 2018 and Lori Cook to March 2016.

On motion by Councilmember Rocha, seconded by Councilmember Wilson, the City Council unanimously approved the following term assignments:

- Lori Cook – one term expiring March 2016
- Beverly Knight – one term expiring April 2018

6. APPOINTMENT TO THE ANTIOCH POLICE CRIME PREVENTION COMMISSION – ONE (1) VACANCY

On motion by Councilmember Rocha, seconded by Councilmember Ogorchock, the City Council unanimously appointed Hilda Parham to the Police Crime Prevention Commission.

Mayor Harper declared a recess at 9:00 P.M. the Council reconvened at 9:16 P.M. with all Councilmembers present.

7. ANIMAL SERVICES UPDATE

Chief Cantando introduced the item and Lieutenant Morefield presented the staff report dated January 13, 2015 recommending the City Council receive oral report regarding staff's efforts regarding the implementation of the ban on feeding feral cats except on one's own private property.

Councilmember Tiscareno stated he was a liaison for the scheduling of the meetings with the stakeholders and he appreciated the excellent dialog. He questioned if any parties were willing to work within the confines of the ban.

In response to Council, Lieutenant Morefield reported consensus of the groups indicated the only acceptable feeding areas were on public land which was in opposition to the ordinance. Speaking in regards to a warning citation issued for feeding the feral cats, he noted to alleviate any further confusion; the word "warning" would be written on citations. He further noted the individual cited was never subject to a fine or told he had to take further action. He stated he would look into signage if that were the direction of City staff; however installing signage was not a function of the Antioch Police Department. He reported Animal Services Supervisor Helgemo applied for grants that were denied.

Holly Cuciz, Brentwood resident, stated she had worked with the Mayor of Milpitas to develop a successful Trap, Neuter, and Release (TNR) program. She requested meetings resume with stakeholders and temporarily lifting the ban to determine if the program could be successful in Antioch.

Susan Smith, representing HARP and the Rivertown Cats, Karen Kops, representing Homeless Animals Response Program (HARP) and Spay Neuter Impact Program (SNIP), Leslie Ward, Jason Newcomer, Victoria Barber, Jesse Wilson, Mike Heckathorn, Barbara Sobalvarro, representing Friends of Animal Services, Lisa Kirk and Robyn Hunt, spoke in support of Antioch adopting a TNR program and repealing the ordinance banning the feeding of feral cats on public property.

Fred Hoskins, Paul Schorr, and Nancy Schorr, Antioch residents, spoke in support of the ordinance.

Mayor Harper read written comment from Antioch resident Allen Payton who stated that according to the wording of the ordinance, it appeared if you did not own an animal then you were permitted to feed the feral cats.

City Manager Duran commented unfettered feeding of cats along the environmentally sensitive waterfront caused issues. He stated he was willing to work with the groups and Animal Services in an attempt to develop a plan within the confines of the ordinance.

Councilmember Rocha recommended Lisa Kirk be involved in the process with the understanding that the stakeholders would be working within the confines of the City's ordinance.

On motion by Councilmember Rocha, seconded by Councilmember Ogorchock, the Council unanimously received and filed the report and directed City Manager Duran to continue dialogue with the TNR organizations to include Lisa Kirk and report back in three (3) months.

Mayor Harper declared a recess at 10:13 P.M. The meeting reconvened at 10:19 P.M. with all Councilmembers present.

8. CARD ROOM ORDINANCE

City Attorney Nerland presented the staff report dated January 13, 2015 recommending the City Council consider the revisions to the Card Room Ordinance and, if desired, to: 1) Make a motion to read the ordinance by title only; and 2) Make a motion to introduce the proposed Ordinance to amend sections 5-4.02, 5-4.03, 5-4.07 and 5-4.14 of the Antioch Municipal Code regarding the number of card rooms in Antioch and procedures for Card Room Licenses.

Steve Scudero, representing the 19th Hole, voiced their support for the proposed ordinance. Speaking in regards to Attachment B of the staff report, item 2A, he noted the State allowed for a minor expansion from 6 to 8 tables with approval of the City Council therefore he feels it should not be taken to a vote of the people. With regards to item 2C, he stated the information regarding the Livermore business was inaccurate. With regards to item 4E, he noted third parties were required to go be licensed by the State. He gave a history of their business.

On motion by Councilmember Rocha, seconded by Councilmember Ogorchock, the City Council unanimously 1) Motioned to read the ordinance by title only; and 2) Motioned to introduce the proposed Ordinance to amend sections 5-4.02, 5-4.03, 5-4.07 and 5-4.14 of the Antioch Municipal Code regarding the number of card rooms in Antioch and procedures for Card Room Licenses.

Mayor Harper requested adding a restriction to the ordinance that would prohibit card rooms from locating near churches, schools, daycares and parks.

On motion by Councilmember Tiscareno, seconded by Councilmember Wilson, the City Council unanimously directed City Attorney Nerland to come back with another ordinance to address restrictions on proximity to schools, parks, daycares, churches and existing card rooms to include grandfathering existing card rooms.

PUBLIC COMMENTS - None

STAFF COMMUNICATIONS

City Manager Duran reported on his attendance at the Mayor's conference and announced he would be attending the League of Cities' training session with Mayor Pro Tem Lori Ogorchock in Sacramento.

COUNCIL COMMUNICATIONS

Councilmember Wilson reported on her attendance at the Mayor's conference, Mira Vista Park open house, Neighborhood Cleanup event and Kwanzaa celebration. She requested an update with regards to her previous request for reinstating the Youth Commission and strengthening the City's ordinance as it pertained to donation boxes.

Councilmember Ogorchock requested an update with regards to the hiring of a business license representative as well as the RFQ/RFP process, if the City was considering outsourcing collection of business licenses. She requested the City Council agendaize hiring three community service officers for the January 27, 2015 City Council meeting.

City Manager Duran stated he would provide the updates requested in his next weekly report. He explained agendaizing the hiring of CSOs would need to be directed by a majority of the City Council. He added the City was in the process of midyear budget review and each department would be submitting their spending plans which included staffing.

Councilmember Tiscareno reported on his attendance at the Neighborhood Cleanup and Mayor's conference. He announced he had met with the Delta Associations of Realtors regarding implementing the Looking Out for You Program.

In response to Councilmember Rocha, City Manager Duran stated the report from the consultant regarding downtown would be coming back to Council after it was heard by the Planning Commission.

ADJOURNMENT

With no further business, Mayor Harper adjourned the meeting at 10:53 P.M. to the next regular Council meeting on January 27, 2015.

Respectfully submitted:

Kitty Eiden
KITTY EIDEN, Minutes Clerk

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

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

**January 27, 2015
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: Michelle Fitzer, Denise Haskett and Glenn Berkheimer; Employee organizations: Operating Engineers Local Union No. 3 (OE3) and Public Employees Union Local 1.

City Attorney Nerland reported the City Council had been in Closed Session and gave the following report: **#1 CONFERENCE WITH LABOR NEGOTIATORS**, Direction was given to the Labor Negotiators.

Mayor Harper called the meeting to order at 6:10 P.M., and City Clerk Simonsen called the roll.

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

PLEDGE OF ALLEGIANCE

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

STUDY SESSION – SPECIAL MEETING

1. **WATER AND SEWER RATES AND CAPACITY CHARGES STUDY SESSION**

Recommended Action: Motion to provide direction

Mayor Harper called the meeting to order at 7:09 P.M., and City Clerk Simonsen called the roll.

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

PLEDGE OF ALLEGIANCE

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

ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS

Jayden Mordecai, Antioch Strolling Strings, announced they would be offering “Valentunes” Valentine’s Day greetings from February 13-15, 2015 for a \$30.00 donation to their scholarship fund. Contact information was provided.

Joy Motts, representing the Rivertown Preservation Society, CRAWDAD and rivertown residents, spoke in support of their proposal to develop a plaza gathering area on the property located at 2nd and "A" Streets.

Karen Kops, President of Spay Neuter Response Program (SNIP), announced the next Spay Clinic date was February 8, 2015. Contact information was provided.

Councilmember Rocha announced Maya Cinemas was holding the Dollar for a Scholar event for students in Pittsburg and Antioch.

ANNOUNCEMENTS OF BOARD AND COMMISSION OPENINGS

City Clerk Simonsen announced a partial-term vacancy on the Planning Commission due to a resignation.

PUBLIC COMMENTS

Lee Ballesteros, representing CRAWDAD, discussed the importance of creating and maintaining parks and recreational spaces to stimulate economic development. She voiced her support for their plan to develop an event center 2nd and "A" Street area.

Edy Schneider, Antioch resident, expressed concern for the blight located on the property at 5th and "B" Streets. She requested the City's assistance in addressing the situation.

City Manager Duran provided Ms. Schneider with his contact information.

Michael Kean, Antioch resident, stated he was frustrated when his vehicle was stolen and he was responsible for paying \$500.00 to retrieve it from the tow yard.

Mayor Harper stated he was sorry for Mr. Kean's circumstances.

Joseph Zamora, Antioch resident, speaking to the recall efforts, stated if sufficient signatures were collected, he would offer \$500.00 in support of Mayor Harper's defense. He gave a brief history of his heritage.

Ken Turnage announced Antioch Family Fun Days would be held May 16-17, 2015 in the downtown district and requested the City Council support the event.

Mayor Harper stated he supported events that promoted unity.

Wayne Harrison, Antioch resident and President of the Celebrate Antioch Foundation, voiced his support for an outdoor event center being created at the Beede Lumber lot and urged the City Council to consider the citizen's proposal.

Patsy Mahaffey, representing CRAWDAD, announced copies of the rendering for the proposed plaza and event center for downtown were available in Council Chambers this evening.

Lori Cook, Antioch resident, thanked Antioch Police Department, Fire Department, and AMR ambulance for their professionalism when they had their vehicle accident.

Linda Soliven, Antioch resident, expressed concern regarding traffic conditions on Golf Course Road that had negatively impacted her quality of life. She requested additional speed limit signs be placed in the area.

Mayor Harper offered to discuss the matter with Ms. Soliven.

Danon requested the City consider installing a stop sign at 4th and "I" Streets to slow traffic near the bus stop for her clients who had developmental disabilities.

Mayor Harper suggested Danon discuss the matter with Director of Public Works/City Engineer Bernal.

Adam spoke in support of the proposal for a park at "A" Street.

COUNCIL SUBCOMMITTEE REPORTS

Councilmember Rocha reported on her attendance at planning meetings for a Stand Down event for local families and announced Salvation Army would be placing barrels for the collection of canned goods throughout Antioch. She noted the event was sponsored by Antioch businesses and the City.

Councilmember Ogorchock reported on her attendance at the League of California Cities convention and Dr. Martin Luther King Jr. event.

MAYOR'S COMMENTS

Mayor Harper reported on his attendance at the Dr. Martin Luther King Jr. event and the City Council's attendance at the promotion ceremony at the Antioch Police Department. He announced the Keep Antioch Beautiful event would be expanding to a month of service.

PRESENTATION

Investment Report by Public Finance Management (PFM), Sarah Meacham

Sarah Meacham, representing Public Finance Management (PFM), presented the Fourth Quarter 2014 Review of Portfolio.

In response to Mayor Harper, Ms. Meacham stated the portfolio was in compliance with City policy.

On behalf of the City Council, Mayor Harper thanked Ms. Meacham for the presentation.

Police Statistics for Year 2014, presented by Chief Allan Cantando

Chief Cantando stated it was a pleasure to assist citizens and he was made aware of Lori and Bill Cooks vehicle accident by Councilmember Tiscareno.

Chief Cantando gave a presentation of the Police Statistics for Year 2014 including the following information:

- Part 1 Crime Statistics
- Bureau of Support Services
- Bureau of Field Services
- Current Staffing Levels
- New Developments

Chief Cantando recognized Ken Turnage for his donation to the Police Activities League (PAL) and community members who had alerted him to situations that needed to be addressed.

Councilmember Wilson thanked Chief Cantando for the presentation and recognized the volunteers.

Councilmember Rocha stated she sympathized with a previous speaker, as she was also the victim of a vehicle theft. She complimented Chief Cantando on the success of the PAL program.

Councilmember Tiscareno thanked Chief Cantando for their hard work in the community and for providing a detailed report. He voiced his support for the continuation of the suppression details.

Councilmember Ogorchock thanked Chief Cantando for the presentation and stated she was pleased that the traffic unit would be reinstated.

Mayor Harper thanked Chief Cantando for the presentation and voiced his support for the Antioch Police Department.

In response to Mayor Harper, Chief Cantando stated he would place a radar trailer on Golf Course Road and once the traffic unit was reinstated, he was hopeful he could place an officer in the area.

2. **COUNCIL CONSENT CALENDAR *for City /City as Successor Agency/Housing Successor to the Antioch Development Agency***
- A. **APPROVAL OF SPECIAL MEETING/CLOSED SESSION MINUTES FOR JANUARY 6, 2015**
- B. **APPROVAL OF COUNCIL MINUTES FOR JANUARY 13, 2015**
- C. **APPROVAL OF COUNCIL WARRANTS**
- D. **CARD ROOM ORDINANCE (*Introduced on 01/13/15*)**
- E. **RESOLUTION NO. 2015/04 FULTON SHIPYARD ROAD TRANSFER STATION TRASH ENCLOSURE (P.W. 261-12)**

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

Item D – City Attorney Nerland stated staff was requesting this item be continued to future meeting while they waited for a response from the State on the item.

On motion by Councilmember Tiscareno, seconded by Councilmember Wilson, the City Council unanimously continued Item D and directed City Attorney bring back the item once the State responded.

COUNCIL REGULAR AGENDA

3. COPIER CAPITAL LEASE WITH RAY MORGAN COMPANY

Finance Director Merchant presented the staff report dated January 27, 2015 recommending the City Council approve entering into a copier capital lease with Ray Morgan Company for a 39 month term and authorize the Finance Director to sign all applicable lease documents. The estimated cost of the copier lease over the 39 month term is projected to be \$330,000. This amount will fluctuate based upon actual volume of usage as there is a base monthly lease fee and a cost per copy fee.

On motion by Councilmember Tiscareno, seconded by Councilmember Rocha, the City Council unanimously approved entering into a copier capital lease with Ray Morgan Company for a 39 month term and authorized the Finance Director to sign all applicable lease documents.

PUBLIC COMMENTS - None

STAFF COMMUNICATIONS

City Manager Duran reported on his attendance at the Dr. Martin Luther King Jr. event and a meeting with the Contra Costa Transportation Authority (CCTA). He stated he anticipated Bond pricing would be completed this week. He announced Director of Community Development Wehrmeister had resigned and her final day was February 11, 2015. He stated she would be missed and he anticipated filling her position in the interim, while the City recruited for the position.

COUNCIL COMMUNICATIONS

Councilmember Tiscareno reported on his attendance at Dr. Martin Luther King Jr. events and recognized the family of former Councilmember Reggie Moore for participating. He noted he had also attended the Contra Costa Fire Fighter academy graduation ceremony.

Councilmember Wilson reported on her attendance at Dr. Martin Luther King Jr. events, planning meetings for Delta Stand Down and the promotion ceremony at the Antioch Police Department.

Mayor Harper announced last week was the first non-furlough Friday in 5.5 years and he recognized City employees for serving the City.

ADJOURNMENT

With no further business, Mayor Harper adjourned the meeting at 8:39 P.M. to the next regular Council meeting on February 10, 2015.

Respectfully submitted:

Kitty Eiden
KITTY EIDEN, Minutes Clerk

CITY OF ANTIOCH
 CLAIMS BY FUND REPORT
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100 General Fund

Non Departmental

354618	A-1 SOLAR POWER	CBSC FEE REFUND	6.40
354659	CONTRA COSTA WATER DISTRICT	FACILITY RESERVE FEES	89,328.00
354660	CONTRA COSTA WATER DISTRICT	TREATED WATER	19,710.84
354675	ECC REG FEE AND FIN AUTH	ECCRFFA-RTDIM	85,696.16
354772	BURKE WILLIAMS AND SORENSEN	LEGAL SERVICES	1,711.00
354775	CIRCLEPOINT	CONSULTING SERVICES	1,629.11
354818	RANEY PLANNING & MANAGEMENT	CONSULTING SERVICES	20,354.94

City Council

354624	ANTIOCH UNIFIED SCHOOL DIST	MLK EVENT	416.50
354662	COSTCO	BUSINESS EXPENSE	96.37
354705	LEAGUE OF CALIF CITIES	MEMBER DUES	700.00
354776	CITY OF EL CERRITO	MAYORS CONFERENCE	50.00
354822	RICKS ON SECOND	MEETING EXPENSE	119.25

City Attorney

354686	GOLDFARB AND LIPMAN LLP	LEGAL SERVICES	546.00
354703	LAW OFFICE MARGARET KOTZEBUE	LEGAL SERVICES	7,809.75
354706	LEXISNEXIS	ONLINE LEGAL RESEARCH	76.50
354713	NERLAND, LYNN T	EXPENSE REIMBURSEMENT	38.00
354725	PORTER SCOTT ATTORNEYS	LEGAL SERVICES	450.00
354827	SHRED IT INC	SHRED SERVICE	46.70
354839	XEROX CORPORATION	COPIER LEASE/USAGE	122.13

City Manager

354643	CA SHOPPING CART RETRIEVAL CORP	SHOPPING CART RETRIEVAL	297.00
354773	CA SHOPPING CART RETRIEVAL CORP	SHOPPING CART RETRIEVAL	510.00
354839	XEROX CORPORATION	COPIER LEASE/USAGE	122.13
923543	KARSTE CONSULTING INC	CONSULTING SERVICES	900.00

City Clerk

354636	BANK OF AMERICA	CONFERENCE DUES	997.20
354655	CONTRA COSTA COUNTY	ELECTION FEES	55,441.46
354788	EIDEN, KITTY J	MINUTES CLERK	378.00
354839	XEROX CORPORATION	COPIER LEASE/USAGE	122.12

City Treasurer

354684	GARDA CL WEST INC	ARMORED CAR PICK UP	226.93
354815	PFM ASSET MGMT LLC	ADVISORY SERVICES	7,324.98

Human Resources

354672	DIABLO LIVE SCAN	FINGERPRINTING	20.00
354693	IEDA INC	PROFESSIONAL SERVICES	3,699.04
354722	EMPLOYEE	EDUCATIONAL INCENTIVE	800.00
354740	STATE OF CALIFORNIA	FINGERPRINTING	32.00
354827	SHRED IT INC	SHRED SERVICE	46.70
354839	XEROX CORPORATION	COPIER LEASE/USAGE	412.58

Economic Development

354813	PACIFIC GAS AND ELECTRIC CO	ELECTRIC	402.88
354839	XEROX CORPORATION	COPIER LEASE/USAGE	122.13

Prepared by: Georgina Meek
 Finance Accounting

2/5/2015

CITY OF ANTIOCH
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923551 BERNICK, MICHAEL	PROFESSIONAL SERVICES	3,300.00
Finance Administration		
354839 XEROX CORPORATION	COPIER LEASE/USAGE	344.20
Finance Accounting		
354728 PERS	PAYROLL DEDUCTIONS	77.03
354765 AT AND T MCI	BITECH PHONE LINE	481.30
354827 SHRED IT INC	SHRED SERVICE	46.71
Finance Operations		
354696 JOBS AVAILABLE INC	ADVERTISEMENT	292.50
354834 UNITED PARCEL SERVICE	WEEKLY PRINTER SVC FEE	13.30
354839 XEROX CORPORATION	COPIER LEASE/USAGE	1,944.64
Non Departmental		
354670 DELTA DIABLO	GOLF COURSE WATER	2,214.00
354705 LEAGUE OF CALIF CITIES	2015 MEMBER DUES	25,894.91
354729 RAINS LUCIA STERN PC	SETTLEMENT	4,500.00
354782 DELTA DIABLO	GOLF COURSE WATER	2,214.00
354816 PERS	PAYROLL DEDUCTIONS	538.92
Public Works Maintenance Administration		
354839 XEROX CORPORATION	COPIER LEASE/USAGE	43.41
Public Works General Maintenance Services		
354839 XEROX CORPORATION	COPIER LEASE/USAGE	115.77
Public Works Street Maintenance		
354768 BANK OF AMERICA	SUPPLIES	38.14
354779 CROP PRODUCTION SERVICES INC	CHEMICALS	8,625.75
Public Works-Signal/Street Lights		
354719 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	731.45
354813 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	5,220.22
923541 ICR ELECTRICAL CONTRACTORS	ELECTRICAL SERVICES	2,008.45
923559 ICR ELECTRICAL CONTRACTORS	ELECTRICAL SERVICES	9,634.58
Public Works-Striping/Signing		
354752 ZEPEDA, JUAN C	EXPENSE REIMBURSEMENT	87.18
354786 EAST BAY WELDING SUPPLY	SUPPLIES	55.13
354808 MANERI SIGN COMPANY	SIGNS	859.32
354819 RED WING SHOE STORE	SAFETY SHOES-DOSSEY	212.90
Public Works-Facilities Maintenance		
354619 ACME SECURITY SYSTEMS	INSTALL SECURITY DOOR	20,080.00
354639 BAY CITIES PYROTECTOR	FIRE SYSTEM CERTIFICATION	600.00
354695 JIM CLARK COMPANY	REPAIR SERVICE	600.00
354708 M AND L OVERHEAD DOORS	GATE REPAIR	150.00
354715 OAKLEYS PEST CONTROL	PEST CONTROL SERVICES	100.00
354732 ROGERS ROOFING	ROOF REPAIR	350.00
354744 STATE OF CALIFORNIA	INSPECTION FEE	225.00
354753 ACE HARDWARE, ANTIOCH	SUPPLIES	17.60
354754 ACME SECURITY SYSTEMS	DOOR REPAIR	491.75
354768 BANK OF AMERICA	SUPPLIES	54.49
354800 HOME DEPOT, THE	SUPPLIES	52.75

Prepared by: Georgina Meek
 Finance Accounting

2/5/2015

CITY OF ANTIOCH
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354801	HONEYWELL INTERNATIONAL INC	HVAC REPAIR	7,941.88
354813	PACIFIC GAS AND ELECTRIC CO	ELECTRIC	12,024.51
354833	TYLER SHAW DOORS	DOOR REPAIR	325.50
923541	ICR ELECTRICAL CONTRACTORS	ELECTRICAL SERVICES	101.07
923544	LEES BUILDING MAINTENANCE	JANITORIAL SERVICE	2,165.60
Public Works-Parks Maint			
354719	PACIFIC GAS AND ELECTRIC CO	ELECTRIC	139.48
354755	AMERICAN PLUMBING INC	PLUMBING SERVICE	591.37
354756	AMERICAN SWING PRODUCTS INC	EQUIPMENT	602.96
354783	DELTA FENCE CO	FENCE REPAIR	1,994.00
354813	PACIFIC GAS AND ELECTRIC CO	ELECTRIC	871.12
923541	ICR ELECTRICAL CONTRACTORS	ELECTRICAL SERVICES	1,132.17
923559	ICR ELECTRICAL CONTRACTORS	ELECTRICAL SERVICES	886.03
923560	JOHN DEERE LANDSCAPES PACHECO	CONTROLLER PARTS	3,054.10
Public Works-Median/General Land			
354719	PACIFIC GAS AND ELECTRIC CO	ELECTRIC	58.12
354813	PACIFIC GAS AND ELECTRIC CO	ELECTRIC	1,653.04
Police Administration			
354627	ARROWHEAD 24 HOUR TOWING INC	TOWING SERVICES	702.50
354634	BANK OF AMERICA	MEETING EXPENSE	937.64
354635	BANK OF AMERICA	LODGING	4,579.96
354637	BARNETT MEDICAL SERVICES INC	MEDICAL WASTE DISPOSAL	110.00
354642	BROWNELLS INC	GUN	938.55
354649	COMCAST	CABLE SERVICES	17.30
354651	CONCORD UNIFORMS LLC	UNIFORMS	469.46
354657	CONTRA COSTA COUNTY	FELONY FILING FEES	19,883.00
354662	COSTCO	BUSINESS EXPENSE	194.41
354663	COVANTA ENERGY, LLC	GUN DESTRUCTION	756.86
354664	CPS HUMAN RESOURCE SERVICES	PROMOTIONAL EXAM	1,321.70
354665	CREATIVE SUPPORTS INC	KEYBOARD	331.69
354666	CSI FORENSIC SUPPLY	SUPPLIES	1,570.91
354669	DEL GALLEG0, SOPHIA CARLA	UNIFORM REIMBURSEMENT	131.46
354673	DISH NETWORK	SATELLITE FEE	169.28
354683	GALLS INC	PEPPER SPRAY	133.24
354692	IBS OF TRI VALLEY	BATTERIES	456.46
354698	KIRBY POLYGRAPH	POLYGRAPH EXAMS	1,800.00
354704	LAW OFFICES OF JONES AND MAYER	LEGAL SERVICES	38.00
354714	NET TRANSCRIPTS	TRANSCRIPTION SERVICES	522.97
354717	OFFICE MAX INC	OFFICE SUPPLIES	383.13
354735	SHRED IT INC	SHRED SERVICE	243.49
354736	SIMONE, KRISTINE MARIE	UNIFORM REIMBURSEMENT	86.76
354740	STATE OF CALIFORNIA	FINGERPRINTING	582.00
354751	UNITED STATES POSTAL SERVICE	POSTAGE	2,000.00
354763	ARROWHEAD 24 HOUR TOWING INC	TOWING SERVICE	132.50
354777	CONCORD UNIFORMS LLC	UNIFORMS	756.46
354812	OFFICE MAX INC	OFFICE SUPPLIES	2,274.82

Prepared by: Georgina Meek
 Finance Accounting

2/5/2015

CITY OF ANTIOCH
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354821	RGH GROUP, THE	PROFESSIONAL SERVICES	3,240.00
354839	XEROX CORPORATION	COPIER LEASE/USAGE	1,993.04
923540	HUNTINGTON COURT REPORTERS	TRANSCRIPTION SERVICES	199.70
923542	IMAGE SALES INC	BADGES	139.77
923561	MOBILE MINI LLC	STORAGE CONTAINERS	463.21
Police Prisoner Custody			
354634	BANK OF AMERICA	DRY CLEANING	142.00
Police Community Policing			
354716	OCCUPATIONAL HEALTH CENTERS	EMPLOYMENT MEDICAL	1,635.10
354727	PSYCHOLOGICAL RESOURCES INC	EMPLOYMENT EXAM	900.00
354738	STANTON, WILLIAM JEFF	COURT COSTS	935.69
Police Investigations			
354635	BANK OF AMERICA	HARD DRIVE	68.66
354656	CONTRA COSTA COUNTY	LAB TESTING	63,652.50
354683	GALLS INC	VEST CARRIER	127.53
354707	LEXISNEXIS	SEARCH ENGINE	1,020.00
354721	PERKINSON, JAMES A	TRAINING REIMBURSEMENT	905.13
354737	SPECIAL SERVICES GROUP LLC	SURVEILLANCE SUBSCRIPTION	600.00
354745	T MOBILE USA INC	TEXT MESSAGE RETRIEVAL	100.00
354839	XEROX CORPORATION	COPIER LEASE/USAGE	838.02
Police Communications			
354621	AMERICAN TOWER CORPORATION	CELL TOWER RENTAL	222.84
354632	AT AND T MOBILITY	HIGH SPEED WIRELESS	2,330.40
354650	COMCAST	CONNECTION SERVICE	333.00
354652	CONTRA COSTA COUNTY	TELECOMMUNICATIONS SVC	1,740.00
354685	GLOBALSTAR	SATELLITE PHONE	86.67
354692	IBS OF TRI VALLEY	BATTERIES	260.13
354702	LANGUAGE LINE SERVICES	TRANSLATION SERVICES	5.50
354757	AMERICAN TOWER CORPORATION	TOWER RENTAL	222.84
354766	AT AND T MOBILITY	HIGH SPEED WIRELESS	441.83
354814	PACIFIC TELEMAGEMENT SVCS	LOBBY PAY PHONE	78.00
923541	ICR ELECTRICAL CONTRACTORS	ELECTRICAL SERVICES	1,105.62
Police Community Volunteers			
354788	EIDEN, KITTY J	MINUTES CLERK	126.00
Police Facilities Maintenance			
354619	ACME SECURITY SYSTEMS	REPAIR SERVICE	883.60
354639	BAY CITIES PYROTECTOR	FIRE SYSTEM CERTIFICATION	1,200.00
354730	RANGE MAINTENANCE SERVICES LLC	RANGE MAINTENANCE	2,550.00
354755	AMERICAN PLUMBING INC	PLUMBING SERVICE	324.88
354801	HONEYWELL INTERNATIONAL INC	HVAC REPAIRS	2,188.66
354813	PACIFIC GAS AND ELECTRIC CO	GAS	17,587.01
354833	TYLER SHAW DOORS	DOOR REPLACEMENT	262.50
923533	A AND B CREATIVE TROPHIES	DOOR SIGN	19.62
923544	LEES BUILDING MAINTENANCE	JANITORIAL SERVICE	3,426.00

Community Development Administration

Prepared by: Georgina Meek
 Finance Accounting

CITY OF ANTIOCH
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354839 XEROX CORPORATION	COPIER LEASE/USAGE	353.31
Community Development Land Planning Services		
354769 BAY AREA NEWS GROUP	LEGAL AD	112.00
354784 DYETT AND BHATIA	CONSULTING SERVICES	2,993.48
354807 LOEWKE PLANNING ASSOCIATES	CONSULTING SERVICES	21,807.95
354818 RANEY PLANNING & MANAGEMENT	CONSULTING SERVICES	1,723.28
CD Code Enforcement		
354778 CONTRA COSTA COUNTY	HAZMAT DISPOSAL	815.00
354804 K2GC	ABATEMENT REPAIR	4,828.31
PW Engineer Land Development		
354723 PHA TRANSPORTATION CONSULTANTS	PROFESSIONAL SERVICES	14,850.00
354839 XEROX CORPORATION	COPIER LEASE/USAGE	138.30
Community Development Building Inspection		
354618 A-1 SOLAR POWER	ENERGY INSP FEE REFUND	223.60
212 CDBG Fund		
CDBG		
354646 CITY DATA SERVICES LLC	CDBG SERVICES	1,050.00
923558 HOUSE, TERI	CONSULTING SERVICES	7,507.50
CDBG NSP		
923558 HOUSE, TERI	CONSULTING SERVICES	130.00
213 Gas Tax Fund		
Streets		
354719 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	214.94
354813 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	26,884.73
214 Animal Control Fund		
Animal Control		
354690 HILLS PET NUTRITION	ANIMAL FOOD	594.77
354759 ANIMAL SUPPLY LOGISTICS	SUPPLIES	805.83
354785 EAST BAY VETERINARY EMERGENCY	VETERINARY SERVICES	722.58
354787 EAST HILLS VETERINARY HOSPITAL	VETERINARY SERVICES	882.00
354799 HILLS PET NUTRITION	ANIMAL FOOD	572.84
354805 KOEFRAN SERVICES INC	ANIMAL DISPOSAL SERVICES	3,700.00
354811 MWI VETERINARY SUPPLY CO	SUPPLIES	901.92
354813 PACIFIC GAS AND ELECTRIC CO	GAS	925.63
354839 XEROX CORPORATION	COPIER LEASE/USAGE	203.57
923539 HAMMONS SUPPLY COMPANY	SUPPLIES	270.09
923544 LEES BUILDING MAINTENANCE	JANITORIAL SERVICE	436.00
923557 HAMMONS SUPPLY COMPANY	SUPPLIES	708.13
Maddie's Fund Grant		
354787 EAST HILLS VETERINARY HOSPITAL	VETERINARY SERVICES	3,986.49
215 Civic Arts Fund		
Civic Arts		
354628 ARTS AND CULTURAL FOUNDATION	FY14/15 FINAL PAYMENT	19,000.00

219 Recreation Fund
Non Departmental

Prepared by: Georgina Meek
 Finance Accounting
 2/5/2015

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354688	HERNANDEZ, MARCOS	DEPOSIT REFUND	1,000.00
354710	MIG INC	DEPOSIT REFUND	500.00
354739	STATE BOARD OF EQUALIZATION	SALES TAX	867.86
354746	TATE, ROBIN	DEPOSIT REFUND	500.00
354790	FAGBOHUNGBE, OMOLABAKE	DEPOSIT REFUND	465.00
354794	GARCIA, MARIA	DEPOSIT REFUND	1,000.00
Recreation Admin			
354732	ROGERS ROOFING	ROOF REPAIR	450.00
354801	HONEYWELL INTERNATIONAL INC	DUCT WORK SEALING	7,941.88
354813	PACIFIC GAS AND ELECTRIC CO	ELECTRIC	2,515.28
Senior Programs			
354813	PACIFIC GAS AND ELECTRIC CO	ELECTRIC	1,676.86
923544	LEES BUILDING MAINTENANCE	JANITORIAL SERVICE	336.00
Recreation Classes/Prog			
354700	KOVALICK, LUANNE	CONTRACTOR PAYMENT	426.18
354764	ASNICAR, RENEE	CLASS REFUND	198.00
Recreation Sports Programs			
354796	GOLDEN STATE WARRIORS	YOUTH SPORTS SHIRTS	2,645.00
354813	PACIFIC GAS AND ELECTRIC CO	ELECTRIC	3,433.90
354835	UNITED STATES POSTAL SERVICE	POSTAGE	7,400.00
923550	A AND B CREATIVE TROPHIES	TROPHIES	435.46
Recreation-New Comm Cntr			
354630	AT AND T MCI	PHONE	64.26
354633	BANK OF AMERICA	INSURANCE SERVICES	605.00
354638	BAY BUILDING MAINTENANCE INC	JANITORIAL SERVICE	995.00
354650	COMCAST	CONNECTION SERVICE	1,580.67
354709	MARLIES CLEANING SERVICE	CLEANING SERVICE	280.00
354719	PACIFIC GAS AND ELECTRIC CO	ELECTRIC	4,771.26
354724	PITCHER, JUSTIN WILLIAM	EXPENSE REIMBURSEMENT	34.62
354754	ACME SECURITY SYSTEMS	DOOR REPAIR	535.00
354762	ARLIE WALKER & SONS PAINTING	CONTRACTOR PAYMENT	1,970.00
354770	BAY BUILDING MAINTENANCE INC	JANITORIAL SERVICE	995.00
354839	XEROX CORPORATION	COPIER LEASE/USAGE	310.04
923539	HAMMONS SUPPLY COMPANY	SUPPLIES	80.40
923556	GRAINGER INC	SUPPLIES	151.12
221 Asset Forfeiture Fund			
Non Departmental			
354687	GRANDE, MICHAEL	ASSET FORFEITURE	1,090.00
222 Measure C/J Fund			
Streets			
354680	FEDERAL ADVOCATES INC	ADVOCACY SERVICES	5,000.00
229 Pollution Elimination Fund			
Channel Maintenance Operation			
354809	MCCAMPBELL ANALYTICAL INC	SAMPLE TESTING	288.00

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 Finance Accounting

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923546 PARSONS BRINCKERHOFF INC	CONSULTANT SERVICES	339.61
238 PEG Franchise Fee Fund		
<i>Non Departmental</i>		
354789 ENTISYS SOLUTIONS INC	COMPUTER EQUIPMENT	35,419.70
251 Lone Tree SLLMD Fund		
<i>Lonetree Maintenance Zone 1</i>		
354813 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	802.32
<i>Lonetree Maintenance Zone 2</i>		
354813 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	736.18
252 Downtown SLLMD Fund		
<i>Downtown Maintenance</i>		
354813 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	356.40
253 Almondridge SLLMD Fund		
<i>Almondridge Maintenance</i>		
354813 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	209.64
254 Hillcrest SLLMD Fund		
<i>Hillcrest Maintenance Zone 1</i>		
354813 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	920.68
<i>Hillcrest Maintenance Zone 2</i>		
354813 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	735.15
<i>Hillcrest Maintenance Zone 4</i>		
354813 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	642.82
255 Park 1A Maintenance District Fund		
<i>Park 1A Maintenance District</i>		
354708 M AND L OVERHEAD DOORS	GATE REPAIR	164.14
354719 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	73.08
354813 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	164.45
256 Citywide 2A Maintenance District Fund		
<i>Citywide 2A Maintenance Zone 3</i>		
354813 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	77.17
<i>Citywide 2A Maintenance Zone 4</i>		
354813 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	310.14
<i>Citywide 2A Maintenance Zone 5</i>		
354813 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	470.22
<i>Citywide 2A Maintenance Zone 6</i>		
354813 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	230.46
<i>Citywide 2A Maintenance Zone 9</i>		
354813 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	479.51
<i>Citywide 2A Maintenance Zone10</i>		
354813 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	131.13
257 SLLMD Administration Fund		
<i>SLLMD Administration</i>		
354779 CROP PRODUCTION SERVICES INC	CHEMICALS	2,821.00
311 Capital Improvement Fund		

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Measure WW

354768 BANK OF AMERICA PORTABLE RESTROOM 150.00

Streets

354758 ANCHOR CONCRETE CONST SIDEWALK REPAIR PROJECT 19,926.37

Public Buildings & Facilities

923543 KARSTE CONSULTING INC CONSULTING SERVICES 720.00

416 Honeywell Capital Lease Fund

Non Departmental

354767 BANK OF AMERICA LOAN PAYMENT 43,516.24

570 Equipment Maintenance Fund

Non Departmental

354691 HUNT AND SONS INC FUEL 12,295.22

Equipment Maintenance

354623 ANTIOCH GLASS WINDSHIELD 150.00

354636 BANK OF AMERICA RECRUITMENT AD 100.00

354644 CABRAL WINDSHIELD 598.91

354645 CHUCKS BRAKE AND WHEEL SVC WEATHER STRIP 280.78

354676 EMISSIONS RETROFIT GROUP INC VEHICLE REPAIR 1,087.34

354678 FAST UNDERCAR BRAKE PADS/ROTORS 119.03

354697 KEN KELLER SALES MUFFLER & TAILPIPES 338.85

354750 UNITED LABORATORIES SUPPLIES 1,021.52

354760 ANTIOCH AUTO PARTS BRAKE PARTS 612.89

354763 ARROWHEAD 24 HOUR TOWING INC TOWING SERVICE 421.34

354768 BANK OF AMERICA REPAIR PARTS 60.18

354791 FAST UNDERCAR BRAKE PADS & ROTORS 563.93

354795 GEMS ENVIRONMENTAL MGMT FUEL SYSTEM PROJECT 8,099.15

354813 PACIFIC GAS AND ELECTRIC CO ELECTRIC 604.93

354817 PURSUIT NORTH VEHICLE BUILD 3,373.22

354829 T & D DIESEL TESTING SMOG TESTING 715.00

354830 TRED SHED, THE TIRES 3,442.25

354839 XEROX CORPORATION COPIER LEASE/USAGE 53.06

923541 ICR ELECTRICAL CONTRACTORS ELECTRICAL SERVICES 652.72

573 Information Services Fund

Network Support & PCs

354631 AT AND T MCI PHONE 357.32

354648 COMCAST INTERNET SERVICE 290.85

354650 COMCAST CONNECTION SERVICE 1,042.47

Telephone System

354629 AT AND T MCI PHONE 23.52

354630 AT AND T MCI PHONE 215.39

GIS Support Services

354768 BANK OF AMERICA SUPPLIES 518.17

Office Equipment Replacement

354689 HEWLETT PACKARD COMPANY COMPUTER EQUIPMENT 9,173.88

354789 ENTISYS SOLUTIONS INC COMPUTER EQUIPMENT 53,129.56

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923535 CDW GOVERNMENT INC	COMPUTER EQUIPMENT	450.41
578 Post Retirement Medical-Misc Fund		
Non Departmental		
354667 RETIREE	MEDICAL AFTER RETIREMENT	232.69
354774 RETIREE	MEDICAL AFTER RETIREMENT	449.11
923547 RETIREE	MEDICAL AFTER RETIREMENT	232.69
923548 RETIREE	MEDICAL AFTER RETIREMENT	587.38
923552 RETIREE	MEDICAL AFTER RETIREMENT	114.69
923565 RETIREE	MEDICAL AFTER RETIREMENT	709.38
579 Post Retirement Medical-Mgmt Fund		
Non Departmental		
354682 RETIREE	MEDICAL AFTER RETIREMENT	114.69
923534 RETIREE	MEDICAL AFTER RETIREMENT	891.90
611 Water Fund		
Non Departmental		
354640 BISHOP CO	SUPPLIES	2,240.10
354679 FASTENAL CO	SUPPLIES	892.52
354760 ANTIOCH AUTO PARTS	SUPPLIES	2,423.94
354792 FASTENAL CO	SUPPLIES	642.47
354824 ROBERTS AND BRUNE CO	SUPPLIES	4,007.44
354838 WESCO RECEIVABLES CORP	SUPPLIES	371.47
923537 CRYSTAL CLEAR LOGOS INC	SUPPLIES	1,275.47
923538 GRAINGER INC	SUPPLIES	1,111.45
923553 CRYSTAL CLEAR LOGOS INC	SUPPLIES	202.82
923556 GRAINGER INC	SUPPLIES	63.09
Water Supervision		
354826 RT LAWRENCE CORP	LOCKBOX PROCESSING FEE	813.46
Water Production		
354622 ANIMAL DAMAGE MANAGEMENT	ANIMAL CONTROL	125.00
354630 AT AND T MCI	PHONE	128.56
354647 CLIPPER CONTROLS INC	CIRCUIT BOARDS	731.63
354661 CONTRA COSTA WATER DISTRICT	RAW WATER	170,706.57
354681 FISHER SCIENTIFIC COMPANY	LAB SUPPLIES	28.13
354691 HUNT AND SONS INC	OIL	106.24
354701 KRUGER INC	ACTIFLOW REPAIR PARTS	5,236.51
354716 OCCUPATIONAL HEALTH CENTERS	PREPLACEMENT MEDICAL	417.15
354719 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	165.60
354753 ACE HARDWARE, ANTIOCH	SUPPLIES	16.76
354792 FASTENAL CO	BOLTS	28.06
354793 FISHER SCIENTIFIC COMPANY	LAB SUPPLIES	194.49
354797 GRAPHIC CONTROLS LLC	CHARTS	191.77
354798 HACH CO	LAB SUPPLIES	1,181.07
354813 PACIFIC GAS AND ELECTRIC CO	ELECTRIC	139,065.93
354820 REINHOLDT ENGINEERING CONSTR	FUEL TANK TEST	954.38
354823 RMC WATER AND ENVIRONMENT	PROFESSIONAL SERVICES	31,398.10
354836 WALTER BISHOP CONSULTING	CONSULTING SERVICES	1,404.38

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354838 WESCO RECEIVABLES CORP	LIGHT5	814.78
354839 XEROX CORPORATION	COPIER LEASE	104.90
923536 CHEMTRADE CHEMICALS US LLC	ALUM	2,306.12
923544 LEES BUILDING MAINTENANCE	JANITORIAL SERVICE	292.00
923554 EUROFINS EATON ANALYTICAL INC	MONITORING	550.00
923555 EVOQUA WATER TECHNOLOGIES LLC	SERVICE DI H2O SYSTEM	469.00
923562 OLIN CHLOR ALKALI PRODUCTS	CAUSTIC	5,803.94
923564 SIERRA CHEMICAL CO	CHLORINE	4,073.79
Water Distribution		
354626 AQUA TAP	TAPPING MACHINE	3,742.00
354650 COMCAST	CONNECTION SERVICE	333.00
354671 DELTA DIABLO	RECYCLED WATER	7,582.08
354699 KLEINFELDER INC	PROFESSIONAL SERVICES	738.62
354708 M AND L OVERHEAD DOORS	GATE REPAIR	2,936.78
354731 ROBERTS AND BRUNE CO	SUPPLIES	251.38
354733 ROYAL BRASS INC	SUPPLIES	142.02
354734 RT LAWRENCE CORP	LOCKBOX FEES	693.04
354749 TYLER TECHNOLOGIES	WEB HOSTING FEES	340.00
354753 ACE HARDWARE, ANTIOCH	SUPPLIES	43.13
354760 ANTIOCH AUTO PARTS	PIPE & FITTINGS	429.02
354761 ANTIOCH BUILDING MATERIALS	PAVING MATERIALS	4,548.18
354768 BANK OF AMERICA	WORKSHOP	254.49
354781 DELTA DIABLO	RECYCLED WATER	7,102.64
354802 INFOSEND INC	POSTAGE/PRINT/MAIL SVC	3,165.73
354810 MORGANS HOME AND GARDEN	REDWOOD BARK	46.33
354819 RED WING SHOE STORE	SAFETY SHOES-HICKS	653.19
354824 ROBERTS AND BRUNE CO	PIPE & FITTINGS	6,285.56
354825 ROYAL BRASS INC	WATER TRUCK FILL	147.21
354831 TRENCH PLATE RENTAL CO INC	EQUIPMENT REPAIR	954.20
354839 XEROX CORPORATION	COPIER LEASE/USAGE	135.06
923543 KARSTE CONSULTING INC	CONSULTING SERVICES	900.00
Water Meter Reading		
354768 BANK OF AMERICA	SUPPLIES	216.75
Public Buildings & Facilities		
354620 ALAMEDA ELECTRICAL DISTRIBUTORS	WATER TANK TRANSMITTERS	2,779.96
354625 APPLIED TECHNOLOGY GROUP INC	WIRELESS COMMUNICATION	7,997.53
354641 BROWN AND CALDWELL INC	PROFESSIONAL SERVICES	384.50
354771 BROWN AND CALDWELL INC	PROFESSIONAL SERVICES	501.48
Warehouse & Central Stores		
354768 BANK OF AMERICA	SUPPLIES	54.49
354834 UNITED PARCEL SERVICE	WEEKLY PRINTER SVC FEE	13.30
354839 XEROX CORPORATION	COPIER LEASE/USAGE	142.42
621 Sewer Fund		
Sewer-Wastewater Supervision		
354674 DOWNEY BRAND ATTORNEYS LLP	LEGAL SERVICES	429.00
354819 RED WING SHOE STORE	SAFETY SHOES-CHALK	147.49

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CITY OF ANTIOCH
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354839 XEROX CORPORATION	COPIER LEASE/USAGE	135.06
Sewer-Wastewater Collection		
354650 COMCAST	CONNECTION SERVICE	333.00
354672 DIABLO LIVE SCAN	FINGERPRINTING	40.00
354699 KLEINFELDER INC	PROFESSIONAL SERVICES	738.63
354716 OCCUPATIONAL HEALTH CENTERS	PREPLACEMENT MEDICAL	346.50
354733 ROYAL BRASS INC	SUPPLIES	159.34
354734 RT LAWRENCE CORP	LOCKBOX FEES	693.04
354740 STATE OF CALIFORNIA	FINGERPRINTING	64.00
354749 TYLER TECHNOLOGIES	WEB HOSTING FEES	340.00
354761 ANTIOCH BUILDING MATERIALS	PAVING MATERIALS	3,611.09
354768 BANK OF AMERICA	SERVICE AGREEMENT	1,545.00
354778 CONTRA COSTA COUNTY	LANDFILL INSPECTION	261.00
354780 CWEA SFBS	CERTIFICATE RENEWAL-COOK	240.00
354802 INFOSEND INC	POSTAGE/PRINT/MAIL SERVICE	3,165.73
354806 L SERPA TRUCKING INC	TRUCK RENTAL	1,162.00
354819 RED WING SHOE STORE	SAFETY SHOES-LOPEZ	215.93
354826 RT LAWRENCE CORP	LOCKBOX PROCESSING FEE	813.46
354832 TURMAN COMMERCIAL PAINTERS	PAINTING	4,255.00
923563 SCOTTO, CHARLES W AND DONNA F	PROPERTY RENT	4,500.00
622 Sewer Facilities Expansion Fund		
Wastewater Collection		
354699 KLEINFELDER INC	PROFESSIONAL SERVICES	1,945.50
631 Marina Fund		
Non Departmental		
354803 JONES, ANN	BERTH DEPOSIT REFUND	322.00
354828 STATE BOARD OF EQUALIZATION	SALES TAX REMITTANCE	298.72
354837 WEBER, JEFF	BERTH DEPOSIT REFUND	230.51
Marina Administration		
354755 AMERICAN PLUMBING INC	PLUMBING SERVICE	145.00
354813 PACIFIC GAS AND ELECTRIC CO	GAS	3,211.04
354839 XEROX CORPORATION	COPIER LEASE	99.06
Marina Maintenance		
354768 BANK OF AMERICA	WASTE BAGS	291.93
923544 LEES BUILDING MAINTENANCE	JANITORIAL SERVICE	1,200.00
641 Prewett Water Park Fund		
Non Departmental		
354668 DAVIS, CINDY	DEPOSIT REFUND	500.00
354739 STATE BOARD OF EQUALIZATION	SALES TAX	31.79
Recreation Water Park		
354677 FAR WEST SANITATION & STORAGE	BARRICADE RENTAL	106.85
354726 PRAXAIR DISTRIBUTION INC	OXYGEN	101.75
354813 PACIFIC GAS AND ELECTRIC CO	GAS	10,775.97
354839 XEROX CORPORATION	COPIER LEASE/USAGE	220.36
Recreation Community Cnter		
354668 DAVIS, CINDY	RENTAL FEE REFUND	396.00

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721 Employee Benefits Fund

Non Departmental

354654	CONTRA COSTA COUNTY	PAYROLL DEDUCTIONS	400.00
354658	CONTRA COSTA COUNTY	PAYROLL DEDUCTIONS	50.00
354694	INTERNAL REVENUE SERVICE	PAYROLL DEDUCTIONS	60.00
354718	OPERATING ENGINEERS TRUST FUND	PAYROLL DEDUCTIONS	8,019.46
354720	PARS	PAYROLL DEDUCTIONS	4,609.85
354728	PERS	PAYROLL DEDUCTIONS	348,980.84
354741	STATE OF CALIFORNIA	PAYROLL DEDUCTIONS	315.41
354742	STATE OF CALIFORNIA	PAYROLL DEDUCTIONS	113.62
354743	STATE OF CALIFORNIA	PAYROLL DEDUCTIONS	200.00
354748	RECIPIENT	PAYROLL DEDUCTIONS	112.15
923545	NATIONWIDE RETIREMENT SOLUTIONS	PAYROLL DEDUCTIONS	48,540.62
923549	VANTAGEPOINT TRANSFER AGENTS	PAYROLL DEDUCTIONS	4,960.35

736 APFA Lone Diamond Reassessment 1998 Fund

Non Departmental

354712	NBS LOCAL GOVERNMENT SOLUTIONS	ARBITRAGE FEE	1,200.00
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752 Storm Drain Deposits Fund

Non Departmental

354653	CONTRA COSTA COUNTY	DRAINAGE FEE	10,348.81
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STAFF REPORT TO THE CITY COUNCIL
FOR CONSIDERATION AT THE COUNCIL MEETING OF FEBRUARY 10, 2015

SUBMITTED BY: Donna Conley, City Treasurer *DC*
DATE: February 4, 2015
SUBJECT: Treasurer's Report: DECEMBER 2014

RECOMMENDATION: Review and file.

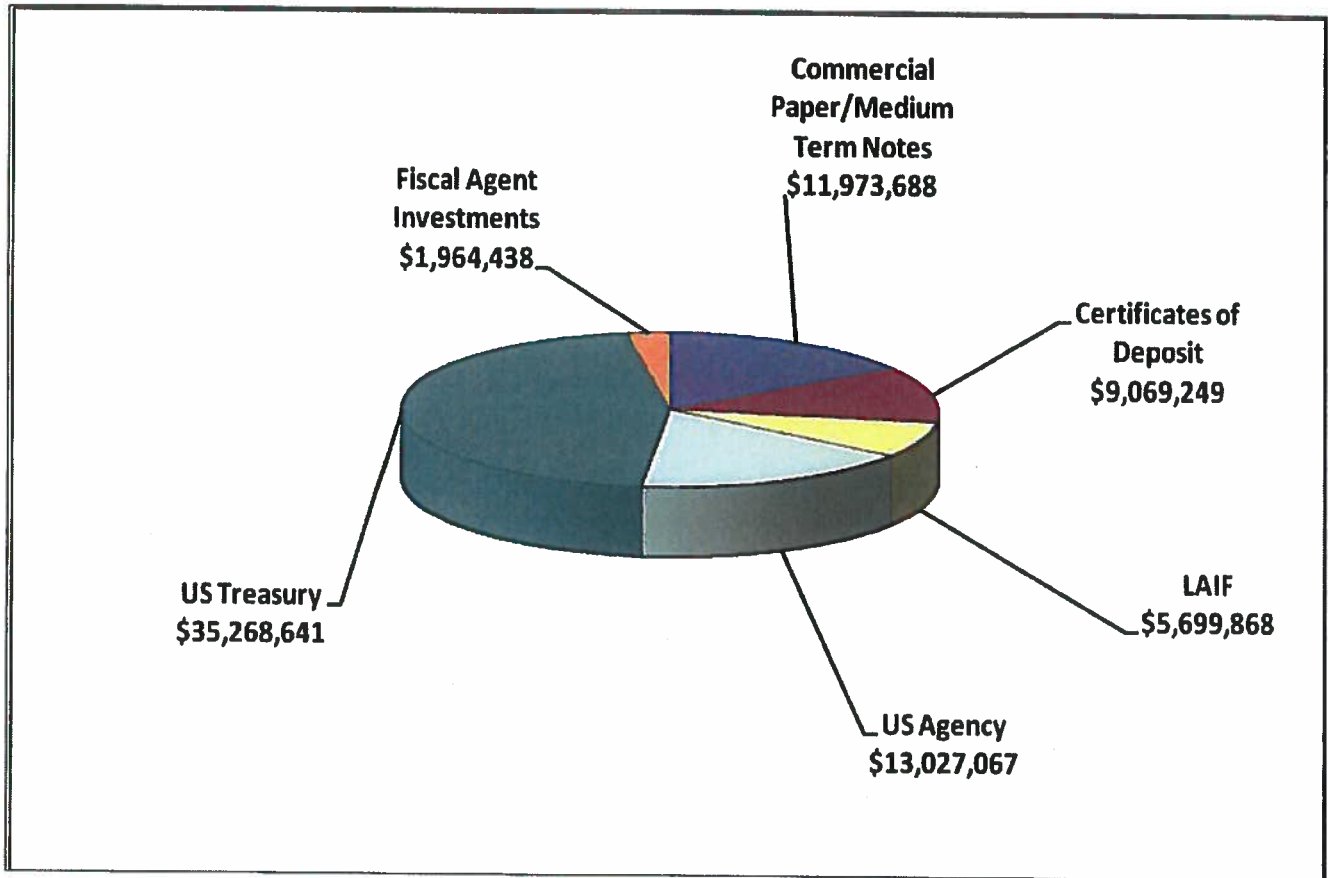
BACKGROUND: City of Antioch's portfolio as of December 2014 is in Compliance with The City's current Investment Policy. Based on the Portfolio as of the December 2014 City of Antioch is able to meet its expenditure requirements for the next six months.

DC

2-10-2015

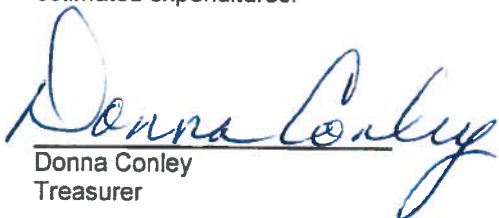
CITY OF ANTIOCH
SUMMARY REPORT ON THE CITY'S INVESTMENTS

DECEMBER 31, 2014



Total of City and Fiscal Agent Investments = \$77,002,951

All City investments are shown above and conform to the City Investment Policy. All investment transactions during this period are included in this report. As Treasurer of the City of Antioch and Finance Director of the City of Antioch, we hereby certify that sufficient investment liquidity and anticipated revenue are available to meet the next six (6) months' estimated expenditures.


Donna Conley
Treasurer


Dawn Merchant
Finance Director

**Summary of Fiscal Agent Balances by
Debt Issue**

	<u>Amount</u>
Antioch Public Financing Authority 2002 Lease Revenue Bonds	1,371,744
Antioch Public Financing Authority 1998 Reassessment Revenue Bonds	14,032
Antioch Development Agency 2000 Tax Allocation Bonds	4
Antioch Development Agency 2009 Tax Allocation Bonds	146,067
ABAG Lease Revenue Bonds	<u>432,590</u>
	<u><u>\$1,964,438</u></u>



Managed Account Issuer Summary

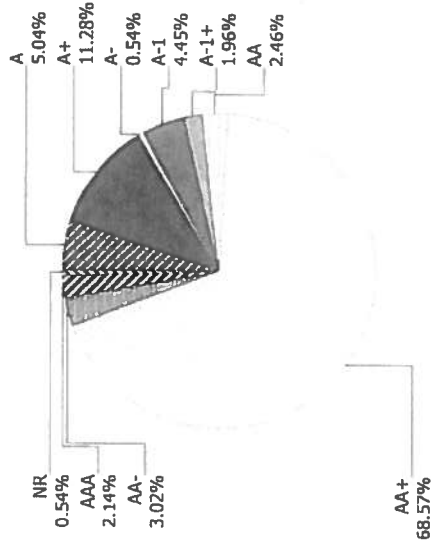
For the Month Ending December 31, 2014

CITY OF ANTIOCH, CA - 04380500

Issuer Summary

Issuer	Market Value of Holdings	Percent
AMERICAN EXPRESS CO	370,723.72	0.54
AMERICAN HONDA FINANCE	587,705.04	0.85
APPLE INC	2,083,372.28	3.02
BANK OF NEW YORK CO INC	1,067,397.32	1.55
BANK OF NOVA SCOTIA	1,347,678.00	1.95
BERKSHIRE HATHAWAY INC	933,062.49	1.35
CA EARTHQUAKE AUTH TXBL REV BOND	374,429.25	0.54
CA ST DEPT OF WATER REV BONDS	501,130.00	0.73
CATERPILLAR INC	766,825.29	1.11
DEERE & COMPANY	1,060,885.91	1.54
FANNIE MAE	2,442,388.00	3.53
FEDERAL HOME LOAN BANKS	3,169,149.79	4.58
FORD CREDIT AUTO OWNER TRUST	748,924.50	1.08
FREDDIE MAC	4,448,505.73	6.43
GOLDMAN SACHS GROUP INC	1,371,535.00	1.99
HSBC HOLDINGS PLC	564,032.16	0.82
JP MORGAN CHASE & CO	1,651,146.70	2.39
MET WATER DISTRICT OF SOUTHERN CA	225,427.50	0.33
RABOBANK NEDERLAND	1,694,884.70	2.45
SKANDINAVISKA ENSKIDA BANKEN AB	1,701,178.10	2.46
STATE OF CALIFORNIA	1,509,600.50	2.19
TOYOTA MOTOR CORP	726,141.88	1.05
UNITED STATES TREASURY	35,228,200.46	50.99
UNIVERSITY OF CALIFORNIA	365,180.95	0.53
US BANCORP	1,360,548.75	1.97
WAL-MART STORES INC	399,812.80	0.58
WELLS FARGO & COMPANY	1,028,398.90	1.49
WESTPAC BANKING CORP NY	1,351,364.85	1.96
Total	\$69,079,630.57	100.00%

Credit Quality (S&P Ratings)



PFM Asset Management LLC



Managed Account Detail of Securities Held

For the Month Ending December 31, 2014

CITY OF ANTIOCH, CA - 04380500

Security Type/Description Dated Date/Coupon/Maturity	CUSIP	S&P Rating	Moody's Rating	Trade Date	Settle Date	Original Cost	YTM at Cost	Accrued Interest	Amortized Cost	Market Value
U.S. Treasury Bond / Note US TREASURY NOTES DTD 01/31/2014 0.375% 01/31/2016	912828B41	AA+	Aaa	02/04/14	02/07/14	1,927,481.44	0.31	3,020.89	1,926,356.84	1,925,902.83
US TREASURY NOTES DTD 05/02/2011 2.000% 04/30/2016	912828OF0	AA+	Aaa	03/27/13	03/28/13	997,277.34	0.38	3,254.14	970,388.85	970,039.30
US TREASURY NOTES DTD 06/02/2014 0.375% 05/31/2016	912828WM8	AA+	Aaa	06/02/14	06/03/14	2,799,562.50	0.38	923.08	2,799,689.56	2,798,250.00
US TREASURY NOTES DTD 06/30/2009 3.250% 06/30/2016	912828KZZ	AA+	Aaa	05/10/13	05/15/13	2,274,507.81	0.41	187.64	2,178,637.03	2,175,232.29
US TREASURY NOTES DTD 06/30/2009 3.250% 06/30/2016	912828KZZ	AA+	Aaa	05/22/13	05/24/13	3,204,783.20	0.44	264.85	3,073,408.68	3,070,303.95
US TREASURY NOTES DTD 06/30/2009 3.250% 06/30/2016	912828KZZ	AA+	Aaa	05/24/13	05/31/13	3,574,570.31	0.53	296.27	3,433,908.03	3,434,577.30
US TREASURY NOTES DTD 08/31/2011 1.000% 08/31/2016	912828RF9	AA+	Aaa	02/27/14	03/03/14	2,293,577.93	0.49	7,695.99	2,284,077.71	2,281,987.50
US TREASURY NOTES DTD 11/30/2011 0.875% 11/30/2016	912828RU6	AA+	Aaa	10/31/13	11/01/13	2,403,446.48	0.62	1,834.62	2,396,496.65	2,395,434.38
US TREASURY NOTES DTD 11/30/2011 0.875% 11/30/2016	912828RU6	AA+	Aaa	11/27/13	12/03/13	3,136,726.56	0.58	2,392.31	3,127,134.51	3,123,606.25
US TREASURY NOTES DTD 01/03/2012 0.875% 12/31/2016	912828RX0	AA+	Aaa	12/05/14	12/09/14	1,706,375.00	0.69	41.09	1,706,184.06	1,706,375.00
US TREASURY NOTES DTD 03/31/2012 1.000% 03/31/2017	912828SM3	AA+	Aaa	10/02/14	10/06/14	1,356,591.80	0.80	3,449.18	1,355,962.64	1,355,695.65
US TREASURY NOTES DTD 05/31/2012 0.625% 05/31/2017	912828SY7	AA+	Aaa	06/02/14	06/03/14	1,964,044.92	0.81	1,085.16	1,966,147.64	1,963,736.33
US TREASURY NOTES DTD 07/02/2012 0.750% 06/30/2017	912828TB6	AA+	Aaa	10/30/14	11/03/14	3,846,089.84	0.79	79.77	3,846,329.26	3,835,562.50
US TREASURY NOTES DTD 07/31/2012 0.500% 07/31/2017	912828TG5	AA+	Aaa	07/01/14	07/07/14	281,047.85	0.96	596.33	281,665.36	281,771.48



PFM Asset Management LLC



For the Month Ending December 31, 2014

Managed Account Detail of Securities Held

CITY OF ANTIOCH, CA - 04380500

Security Type/Description Dated Date/Coupon/Maturity	CUSIP	S&P Rating	Moody's Rating	Trade Date	Settle Date	Original Cost	YTM at Cost	Accrued Interest	Amortized Cost	Market Value
U.S. Treasury Bond / Note										
US TREASURY NOTES DTD 09/30/2010 1.875% 09/30/2017	912828PAZ	AA+	Aaa	09/02/14	09/04/14	1,537,617.19	1.04	7,185.78	1,533,674.42	1,535,038.50
US TREASURY NOTES DTD 12/31/2012 0.750% 12/31/2017	912828UE8	AA+	Aaa	12/01/14	12/03/14	2,388,281.25	0.91	49.72	2,388,580.15	2,374,687.20
Security Type Sub-Total						35,691,981.42	0.61	32,356.82	35,268,641.39	35,228,200.46

Municipal Bond / Note										
UNIV OF CAL TXBL REV BONDS DTD 10/02/2013 0.528% 05/15/2015	91412GSW6	AA	Aa2	09/26/13	10/02/13	230,000.00	0.53	155.17	230,000.00	230,023.00
METRO WTR DIST AUTH, CA TXBL REV BONDS	59266THO7	AAA	Aa1	06/21/12	06/28/12	225,000.00	0.94	1,060.88	225,000.00	225,427.50
DTD 06/28/2012 0.943% 07/01/2015										
CA ST DEPT OF WATER TXBL REV BONDS DTD 09/27/2012 0.650% 12/01/2015	13066KX87	AAA	Aa1	09/19/12	09/27/12	500,000.00	0.65	270.83	500,000.00	501,130.00
CA ST TXBL GO BONDS DTD 03/27/2013 1.050% 02/01/2016	13063BN73	A+	Aa3	03/13/13	03/27/13	551,859.00	0.93	2,406.25	550,713.15	552,827.00
UNIV OF CAL TXBL REV BONDS DTD 10/02/2013 0.907% 05/15/2016	91412GSX4	AA	Aa2	09/26/13	10/02/13	135,000.00	0.91	156.46	135,000.00	135,157.95
CA EARTHQUAKE AUTH TXBL REV BONDS DTD 11/06/2014 1.194% 07/01/2016	13017HAC0	NR	A3	10/29/14	11/06/14	225,000.00	1.19	410.44	225,000.00	224,849.25
CA ST TAXABLE GO BONDS DTD 11/05/2013 1.250% 11/01/2016	13063CFD7	A+	Aa3	10/22/13	11/05/13	954,455.50	1.09	1,979.17	952,749.40	956,773.50
CA EARTHQUAKE AUTH TXBL REV BONDS DTD 11/06/2014 1.824% 07/01/2017	13017HAD8	NR	A3	10/29/14	11/06/14	150,000.00	1.82	418.00	150,000.00	149,580.00
Security Type Sub-Total						2,971,314.50	0.97	6,857.20	2,968,462.55	2,975,768.20

Federal Agency Bond / Note										
FANNIE MAE GLOBAL NOTES DTD 02/15/2013 0.500% 03/30/2016	3135G0VAB	AA+	Aaa	02/14/13	02/15/13	799,088.00	0.54	1,011.11	799,634.02	800,800.00



PFM Asset Management LLC



For the Month Ending December 31, 2014

Managed Account Detail of Securities Held

CITY OF ANTIOCH, CA - 04380500

Security Type/Description	Dated Date/Coupon/Maturity	CUSIP	S&P Rating	Moody's Rating	Trade Date	Settle Date	Original Cost	YTM at Cost	Accrued Interest	Amortized Cost	Market Value	
Federal Agency Bond / Note												
FREDDIE MAC GLOBAL NOTES	DTD 03/07/2013 0.500% 05/13/2016	3137EAD09	AA+	Aaa	03/06/13	03/07/13	239,985.60	0.50	160.00	239,993.71	240,084.48	
FNMA NOTES	DTD 08/19/2011 1.250% 09/28/2016	3135G0CM3	AA+	Aaa	10/01/13	10/03/13	664,674.35	0.75	2,115.10	660,668.22	661,686.24	
FNMA NOTES	DTD 08/19/2011 1.250% 09/28/2016	3135G0CM3	AA+	Aaa	10/01/13	10/03/13	984,555.92	0.74	3,132.29	978,527.93	979,901.76	
FHLB NOTES	DTD 08/07/2014 0.500% 09/28/2016	3130A2T97	AA+	Aaa	08/06/14	08/07/14	1,855,815.00	0.61	2,402.50	1,856,591.74	1,855,069.14	
FEDERAL HOME LOAN BANKS (CALLABLE)	DTD 03/27/2014 1.625% 03/27/2017	3130A1CR7	AA+	Aaa	04/02/14	04/04/14	1,324,396.90	1.25	5,558.40	1,313,511.80	1,314,080.65	
FREDDIE MAC GLOBAL NOTES	DTD 06/25/2012 1.000% 07/28/2017	3137EADJ5	AA+	Aaa	08/12/14	08/14/14	1,609,800.36	1.00	6,842.50	1,609,826.91	1,609,396.25	
FREDDIE MAC GLOBAL NOTES	DTD 06/25/2012 1.000% 07/28/2017	3137EADJ5	AA+	Aaa	08/12/14	08/14/14	2,599,825.80	1.00	11,050.00	2,599,849.82	2,599,025.00	
Security Type Sub-Total							10,078,141.93	0.87	32,271.90	10,058,604.15	10,060,043.52	
Corporate Note												
JPMORGAN CHASE & CO GLOBAL NOTES	DTD 10/18/2012 1.100% 10/15/2015	46623ER1	A	A3	10/15/12	10/18/12	649,733.50	1.11	1,509.44	649,928.85	651,168.70	
BANK OF NEW YORK MELLON (CALLABLE)	DTD 10/25/2012 0.700% 10/23/2015	06406HCD9	A+	A1	10/18/12	10/25/12	424,562.25	0.73	561.94	424,880.50	425,956.68	
BANK OF NEW YORK MELLON (CALLABLE)	DTD 10/25/2012 0.700% 10/23/2015	06406HCD9	A+	A1	12/17/12	12/20/12	638,067.20	0.81	846.22	639,444.21	641,440.64	
WAL-MART STORES INC GLOBAL NOTES	DTD 04/11/2013 0.600% 04/11/2016	93114ZDE0	AA	Aa2	04/04/13	04/11/13	399,716.00	0.62	533.33	399,878.41	399,812.80	
APPLE INC GLOBAL NOTES	DTD 05/03/2013 0.450% 05/03/2016	037833AH3	AA+	Aa1	04/30/13	05/03/13	379,312.20	0.51	275.50	379,691.77	379,588.08	
TOYOTA MOTOR CREDIT CORP	DTD 05/17/2013 0.800% 05/17/2016	89236TAL9	AA-	Aa3	05/14/13	05/17/13	724,702.75	0.81	708.89	724,862.61	726,141.88	



PFM Asset Management LLC



Managed Account Detail of Securities Held

For the Month Ending December 31, 2014

CITY OF ANTIOCH, CA - 04380500

Security Type/Description Dated Date/Coupon/Maturity	CUSIP	S&P Rating	Moody's Rating	Trade Date	Settle Date	Original Cost	YTM at Cost	Accrued Interest	Amortized Cost	Market Value
Corporate Note										
WELLS FARGO & COMPANY DTD 07/29/2013 1.250% 07/20/2016	94974BFL9	A+	A2	07/22/13	07/29/13	1,024,016.00	1.28	5,730.03	1,024,481.28	1,028,398.90
BERKSHIRE HATHAWAY FIN GLOBAL NOTES DTD 08/15/2013 0.950% 08/15/2016	084664BX8	AA	Aa2	08/06/13	08/15/13	929,507.10	0.97	3,337.67	929,731.73	933,062.49
AMERICAN HONDA FINANCE GLOBAL NOTES DTD 10/10/2013 1.125% 10/07/2016	02665WAB7	A+	A1	10/03/13	10/10/13	582,964.20	1.24	1,535.63	583,788.85	587,705.04
JPMORGAN CHASE & CO DTD 02/18/2014 1.350% 02/15/2017	46623EYI6	A	A3	02/12/14	02/18/14	999,500.00	1.37	5,100.00	999,643.00	999,978.00
APPLE INC CORP NOTE DTD 05/06/2014 1.050% 05/05/2017	037833AM2	AA+	Aa1	04/29/14	05/06/14	1,699,099.00	1.07	2,727.08	1,699,292.90	1,703,784.20
JOHN DEERE CAPITAL CORP NOTES DTD 06/12/2014 1.125% 06/12/2017	24422ESN0	A	A2	06/09/14	06/12/14	1,064,499.45	1.14	632.34	1,064,590.42	1,060,885.91
HSBC USA INC DTD 06/23/2014 1.300% 06/23/2017	40434CAA3	A+	A2	06/16/14	06/23/14	564,141.20	1.35	163.22	564,288.23	564,032.16
CATERPILLAR FINANCIAL SE DTD 08/20/2014 1.250% 08/18/2017	14912L6D8	A	A2	08/13/14	08/20/14	769,615.00	1.27	3,502.43	769,660.95	766,825.29
AMERICAN EXPRESS CREDIT CORP NOTES DTD 09/23/2014 1.550% 09/22/2017	0258M0DR7	A-	A2	09/18/14	09/23/14	369,504.20	1.60	1,561.19	369,548.31	370,723.72
Security Type Sub-Total		11,230,000.00				11,218,940.05	1.09	28,724.91	11,223,712.02	11,239,504.49
Certificate of Deposit										
SKANDINAVISKA ENSKILDA BY NY FLOAT CD DTD 01/10/2014 0.551% 01/04/2016	83051HUD6	A-1	P-1	01/07/14	01/10/14	1,700,000.00	0.56	2,290.58	1,700,000.00	1,701,178.10
WESTPAC BANKING CORP NY LT FLOAT CD DTD 04/17/2014 0.411% 04/15/2016	96121TWF1	A-1+	P-1	04/16/14	04/17/14	1,350,000.00	0.41	1,201.00	1,350,000.00	1,351,364.85
RABOBANK NEDERLAND NV NY CD DTD 05/13/2014 0.716% 05/06/2016	21684BPV0	A+	Aa2	05/09/14	05/13/14	1,700,000.00	0.71	1,860.26	1,700,000.00	1,694,884.70



PFM Asset Management LLC



Managed Account Detail of Securities Held

For the Month Ending December 31, 2014

CITY OF ANTIOCH, CA - 04380500

Security Type/Description	Dated Date/Coupon/Maturity	CUSIP	S&P Rating	Moody's Rating	Trade Date	Settle Date	Original Cost	YTM at Cost	Accrued Interest	Amortized Cost	Market Value	
Certificate of Deposit												
BANK OF NOVA SCOTIA HOUS CD FLOAT	06/13/2014 0.418% 06/10/2016	06417HMU7	A+	Aa2	06/11/14	06/13/14	1,349,184.60	0.28	344.52	1,349,410.85	1,347,678.00	
GOLDMAN SACHS BANK USA CD	08/19/2014 0.900% 08/12/2016	38147J2L5	A-1	P-1	08/14/14	08/19/14	1,375,000.00	0.90	4,577.05	1,375,000.00	1,371,535.00	
US BANK NA CINCINNATI (CALLABLE) CD	09/11/2014 1.375% 09/11/2017	90333VPF1	AA-	Aa3	09/09/14	09/11/14	1,372,786.25	1.41	5,776.91	1,373,012.48	1,360,548.75	

Security Type Sub-Total 8,850,000.00 8,846,970.85 0.71 16,050.32 8,847,423.33 8,827,189.40

Asset-Backed Security / Collateralized Mortgage Obligation:

FORD ABS 2014-C A2	11/25/2014 0.610% 08/15/2017	34530PAC6	AAA	NR	11/18/14	11/25/14	749,974.80	0.61	203.33	749,975.86	748,924.50
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Security Type Sub-Total 750,000.00 749,974.80 0.61 203.33 749,975.86 748,924.50

Managed Account Sub-Total 68,675,000.00 69,557,323.55 0.75 116,464.48 69,116,819.30 69,079,630.57

Securities Sub-Total \$68,675,000.00 \$69,557,323.55 0.75% \$116,464.48 \$69,116,819.30 \$69,079,630.57

Accrued Interest \$116,464.48

Total Investments \$69,196,095.05





Managed Account Security Transactions & Interest

For the Month Ending December 31, 2014

CITY OF ANTIOCH, CA - 04380500

Transaction Type	Trade Settle	Security Description	CUSIP	Par	Principal Proceeds	Accrued Interest	Total	Realized G/L Cost	Realized G/L Amort Cost	Sale Method
BUY										
12/01/14	12/03/14	US TREASURY NOTES	912828UE8	2,400,000.00	(2,388,281.25)	(7,630.43)	(2,395,911.68)			
		DTD 12/31/2012 0.750% 12/31/2017								
12/05/14	12/09/14	US TREASURY NOTES	912828RX0	1,700,000.00	(1,706,375.00)	(6,548.23)	(1,712,923.23)			
		DTD 01/03/2012 0.875% 12/31/2016								
Transaction Type Sub-Total				4,100,000.00	(4,094,656.25)	(14,178.66)	(4,108,834.91)			
INTEREST										
12/01/14	12/01/14	CA ST DEPT OF WATER TXBL REV BONDS	130660X87	500,000.00	0.00	1,625.00	1,625.00			
12/10/14	12/10/14	DTD 09/27/2012 0.650% 12/01/2015 BANK OF NOVA SCOTIA HOUS CD FLOAT	06417HMU7	1,350,000.00	0.00	1,411.41	1,411.41			
12/12/14	12/12/14	DTD 06/13/2014 0.418% 06/10/2016 JOHN DEERE CAPITAL CORP NOTES	24422ESN0	1,065,000.00	0.00	5,990.63	5,990.63			
12/15/14	12/15/14	DTD 06/12/2014 1.125% 06/12/2017 FORD ABS 2014-C A2	34530PAC6	750,000.00	0.00	254.17	254.17			
12/23/14	12/23/14	DTD 11/25/2014 0.610% 08/15/2017 HSBC USA INC	40434CAA3	565,000.00	0.00	3,672.50	3,672.50			
12/31/14	12/31/14	DTD 06/23/2014 1.300% 06/23/2017 US TREASURY NOTES	912828TB6	3,850,000.00	0.00	14,437.50	14,437.50			
12/31/14	12/31/14	DTD 07/02/2012 0.750% 06/30/2017 US TREASURY NOTES	912828RX0	1,700,000.00	0.00	7,437.50	7,437.50			
12/31/14	12/31/14	DTD 01/03/2012 0.875% 12/31/2016 US TREASURY NOTES	912828UE8	2,400,000.00	0.00	9,000.00	9,000.00			
12/31/14	12/31/14	DTD 12/31/2012 0.750% 12/31/2017 US TREASURY NOTES	912828KZ2	3,300,000.00	0.00	53,625.00	53,625.00			
12/31/14	12/31/14	DTD 06/30/2009 3.250% 06/30/2016 US TREASURY NOTES	912828KZ2	2,090,000.00	0.00	33,962.50	33,962.50			
12/31/14	12/31/14	DTD 06/30/2009 3.250% 06/30/2016 US TREASURY NOTES	912828KZ2	2,950,000.00	0.00	47,937.50	47,937.50			
Transaction Type Sub-Total				20,520,000.00	0.00	179,353.71	179,353.71			



PFM Asset Management LLC



STAFF REPORT TO THE CITY COUNCIL

DATE: Regular Meeting of February 10, 2015

TO: Honorable Mayor and Members of the City Council

SUBMITTED BY: Ahmed Abu Aly, Associate Engineer, Capital Improvements Division **AA**

APPROVED BY: Ron Bernal, Public Works Director/City Engineer **REB**

SUBJECT: Consideration of Bids for the 2015 Pavement Maintenance, Rubberized Cape Seal, (P.W. 328-8)

RECOMMENDED ACTION

It is recommended City Council award the 2015 Pavement Maintenance Rubberized Cape Seal project to the low bidder, American Pavement Systems in the amount of \$1,865,571.25.

STRATEGIC PURPOSE

This item supports Strategy K-1 in the Strategic Plan by ensuring well maintained public facilities and rights-of-way, as well as Strategy K-5, by reducing the City's liability from third party claims as we continue to prioritize the maintenance of our streets and pedestrian travel ways.

FISCAL IMPACT

On December 16, 2014 the City Council approved an amendment to the 2014/2015 Capital Improvement Budget to increase the Gas Tax funding for the Preventative Maintenance Program to \$4,100,000. The City will receive \$162,937 in grant funding for this project from CalRecycle based on the amount on the amount of square yards of pavement restored. Funding for this work will be via the Gas Tax fund.

DISCUSSION

The Five-Year CIP program includes a yearly preventive maintenance program to restore pavement conditions citywide. This project will include applying rubberized chip seal and slurry to existing residential streets. This year's project will include the streets listed on Attachment B.

Construction is scheduled to begin on June 8, 2015, at the end of the school year, and completion of the project is expected by July 31, 2015.

On January 13, 2015, five (5) bids were received and opened as shown on the attached tabulation. The low bid was submitted by American Pavement Systems of Modesto in the amount of \$ 1,865,571.25. The bids have been checked and found to be without any errors or omissions.

ATTACHMENT "A"

CITY OF ANTIOCH						
TABULATION OF BIDS						
JOB TITLE: 2015 Pavement Maintenance, Rubberized Cape Seal Project (P.W. 328-8)						
BIDS OPENED: January 13, 2015 ~ 2:00 p.m. City Council Chambers						
	Engineer's Estimate	American Pavement Systems Modesto	California Pavement Maintenance Co., Inc. Sacramento	VSS International, Inc. West Sacramento	Telfer Highway Technologies McClellan	Intermountain Slurry Seal Elk Grove
TOTAL BID PRICE	\$1,750,000.00	\$1,865,571.25	\$1,909,116.14	\$1,925,520.00	\$2,114,843.75	\$2,159,159.00
American Pavement Systems		California Pavement Maintenance Co.		VSS International, Inc.		Intermountain Slurry Seal
Striping Sierra Traffic Markings, Inc. Slurry Seal California Pavement Maintenance		Striping Sierra Traffic Markings, Inc. Chip Seal Installation American Pavement Systems		Striping Sierra Traffic Markings, Inc. Tree Trimming The Professional Tree Care Co.		Striping Sierra Traffic Markings, Inc.
Telfer Highway Technologies		California Pavement Maintenance Co.		VSS International, Inc.		Intermountain Slurry Seal
Striping Sierra Traffic Markings, Inc. Traffic Control American Pavement Systems Mobilization		Striping Sierra Traffic Markings, Inc. Chip Seal Installation American Pavement Systems		Striping Sierra Traffic Markings, Inc. Tree Trimming The Professional Tree Care Co.		Striping Sierra Traffic Markings, Inc.

ATTACHMENT "B"

Rubberized Cape Seal List of Streets			
Street	Boundaries	Square Feet	Square Yard
Bluerock Drive	Lone Tree Way to Deer Valley Road	214,955	23,884
Granite Circle	Granite Circle / Court	30,000	3,333
Bluerock Court	Bluerock Court	5,850	650
Jade Court	Jade Court	5,400	600
"G" Street	North of Newbury Ave. to Longview Rd.	159,185	17,687
Whitehaven Court	All	11,550	1,283
Ravenwood Court	All	6,600	733
Donham Court	All	7,590	843
Bourton Court	All	9,900	1,100
Gloucester Court	All	17,820	1,980
Deerfield Drive	Hillcrest Avenue to Country Hills Road	119,724	13,303
4th Street	"L" Street to "G" Street	61,050	6,783
"G" Street	4th Street to 10th Street	58,275	6,475
10th Street	"A" Street to "O" Street	213,750	23,750
"A" Street	8th Street to Beede Way	38,060	4,229
Wilbur Avenue	"A" Street to Cavallo Road	135,475	5,053
E 18th Street	"A" Street to Hwy 4 - City limit	796,600	88,511
E Tregallas Road	Hillcrest Avenue to Garrow Drive	143,005	15,889
Deer Valley Road	Hillcrest Avenue to Lone Tree Way	623,780	69,309
W Tregallas Road	Lone Tree Way to El Rey St	99,900	11,100
Verne Roberts Circle	W 10th St to 2508 Verne Roberts Cr	138,600	15,400
Costco Way	Auto Center Drive to Verne Roberts Cr	17,325	1,925



STAFF REPORT TO THE CITY COUNCIL

DATE: Regular Meeting of February 10, 2015

TO: Honorable Mayor and Members of the City Council

SUBMITTED BY: Scott Buenting, Associate Engineer, Capital Improvements Division *SB*

APPROVED BY: Ron Bernal, Public Works Director/City Engineer *REB*

SUBJECT: Country Hills Drive Sanitary Sewer Main Rehabilitation
(P.W. 545-1)

RECOMMENDED ACTION

It is recommended that the City Council adopt the attached resolution accepting work, authorizing the Public Works Director/City Engineer to File a Notice of Completion and authorizing the Director of Finance to make a final payment of \$280,999.55 plus retention of \$14,789.45 to be paid 35 days after recordation of the Notice of Completion for the Country Hills Drive Sanitary Sewer Main Rehabilitation project.

STRATEGIC PURPOSE

This item supports Strategy K-1 in the Strategic Plan by ensuring well maintained public facilities and rights-of-way.

FISCAL IMPACT

The final construction contract price for this project is \$295,789 with funding from Sewer Enterprise Funds.

DISCUSSION

On September 22 2014, the City Council awarded a contract to Michels Corporation DBA Michels Pipeline Construction in the amount of \$297,897 for the rehabilitation of the twelve inch (12") sanitary sewer main on Country Hills Drive between Deer Valley Road and Hillcrest Avenue using the trenchless cured-in-place pipe (CIPP) method. This project also included the reinstatement of existing sewer service laterals, designing, installing and maintaining sewer flow control facilities and providing traffic and water pollution control.

All work on this project was completed on December 9, 2014.

ATTACHMENTS

- A: Resolution Accepting Work
- B: Notice of Completion

ATTACHMENT "A"

RESOLUTION NO. 2015/
RESOLUTION ACCEPTING WORK AND DIRECTING
THE PUBLIC WORKS DIRECTOR/CITY ENGINEER
TO FILE A NOTICE OF COMPLETION AND AUTHORIZING FINAL
PAYMENT TO MICHELS CORPORATION FOR THE COUNTRY HILLS DRIVE
SANITARY SEWER MAIN REHABILITATION
(P.W. 545-1)**

WHEREAS, the Public Works Director/City Engineer, has certified the completion of all work provided to be done under and pursuant to the contract between the City of Antioch and Michels Corporation DBA Michels Pipeline Construction and;

WHEREAS, it appears to the satisfaction of this City Council that said work under said contract has been fully completed and done as provided in said contract and the plans and specifications therein referred to;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Antioch, that:

1. The above-described work is hereby accepted.
2. The Public Works Director/City Engineer is directed to execute and file for record with the County Recorder, County of Contra Costa, a Notice of Completion thereof.
3. The Director of Finance is hereby directed to pay the Contractor a final payment of \$280,999.55 plus retention of \$14,789.45 to be paid 35 days after recordation of the Notice of Completion.

* * * * *

I HEREBY CERTIFY that the foregoing resolution was passed and adopted by the City Council of the City of Antioch at a regular meeting thereof held on the 10th day of February, 2015 by the following vote:

AYES:

NOES:

ABSENT:

**ARNE SIMONSEN
CITY CLERK OF THE CITY OF ANTIOCH**

ATTACHMENT "B"

Recorded at the request
of and for the benefit
of the City of Antioch

When recorded, return
to City of Antioch
Capital Improvements Department
P.O. Box 5007
Antioch, CA 94531-5007

NOTICE OF COMPLETION

FOR

**COUNTRY HILLS DRIVE SANITARY SEWER MAIN REHABILITATION
IN THE CITY OF ANTIOCH
(P.W. 545-1)**

NOTICE IS HEREBY GIVEN that the work and improvements hereinafter described, the contract for which was entered into by and between the City of Antioch and Michels Corporation DBA Michels Pipeline Construction was completed on December 9, 2014.

The surety for said project was Liberty Mutual Insurance Company.

The subject project consisted of rehabilitating a sanitary sewer main using the cured-in-place pipe method on Country Hills Drive between Deer Valley Road and Hillcrest Avenue in the City of Antioch.

**THE UNDERSIGNED STATES UNDER PENALTY OF
PERJURY THAT THE ABOVE IS TRUE AND CORRECT**

Date

RON BERNAL, P.E.
Public Works Director/City Engineer



STAFF REPORT TO THE CITY COUNCIL

DATE: Regular Meeting of February 10, 2015

TO: Honorable Mayor and Members of the City Council

SUBMITTED BY: Scott Buenting, Associate Engineer, Capital Improvements Division *SIB*

APPROVED BY: Ron Bernal, Public Works Director/City Engineer *REB*

SUBJECT: Community Development Block Grant Downtown Roadway Pavement Rehabilitation (P.W. 678-6)

RECOMMENDED ACTION

It is recommended that the City Council award the Community Development Downtown Roadway Pavement Rehabilitation project to the low bidder, MCK Services, Inc., in the amount of \$611,125.

STRATEGIC PURPOSE

This item supports Strategy K-1 in the Strategic Plan: Ensure well maintained public facilities, rights-of-way and parks. By rehabilitating aging roadways, increasing pedestrian travel paths and improving surface storm drainage, this project is an integral part of operating and maintaining Antioch's assets to create a safe, beautiful, highly functional and desirable community.

FISCAL IMPACT

The 2014-15 Capital Improvement Budget includes \$405,000 of Community Development Block Grant program funds and \$250,000 of Gas Tax funds for the rehabilitation of downtown roadways, including West Second Street.

DISCUSSION

On January 20, 2015, five (5) bids were received and opened as shown on the attached tabulation. The low bid was submitted by MCK Services, Inc. of Concord in the amount of \$611,125. The bids have been checked and found to be without any errors or omissions.

This project will remove and replace the asphalt concrete over the full width of the roadways of West Second Street from 'J' to 'L' Streets, West Third Street, between 'I' and 'J' Streets, West Fifth Street from 'J' to 'L' Streets and 'K' Street from West Second and West Tenth Streets. Portions of the roadway on 'K' Street at the West Third, West Fourth and West Fifth Street intersections will be fully reconstructed. Thirteen new curb ramps will be installed. Deteriorating, damaged and uneven concrete curb, gutter, sidewalk and driveway approaches adjacent to the roadways will be replaced and various storm drainage improvements will be performed.

ATTACHMENTS

A: Tabulation of Bids

CITY OF ANTIOCH									
TABULATION OF BIDS									
JOB TITLE: Community Development Block Grant Downtown Roadway Pavement Rehabilitation, Phase 6 (P.W. 678-6)									
BIDS OPENED: January 20, 2015 ~ 2:00 p.m. City Council Chambers									
	Engineer's Estimate	MCK Services, Inc. Concord	Bay Cities Paving & Grading, Inc. Concord	Graniterock San Jose	Knife River Construction Stockton	Robert Burns Construction Stockton			
TOTAL BID PRICE	\$750,000.00	\$611,125.00	\$732,396.55	\$798,436.00	\$814,937.50	\$928,143.00			
<i>MCK Services, Inc.</i>									
Paving Fabric Telfer Striping Chrisp Company Concrete Rosas Brothers Adjust Utilities JCC, Inc.	<i>Bay Cities Paving & Grading</i>								
	Paving Fabric Telfer Striping Super Seal & Stripe AC Grinding ABSL Construction Adjust Utilities Johnson Construction Co. Concrete Rosas Brothers	<i>Graniterock</i>							
		Paving Fabric Telfer Striping Chrisp Company Concrete Vanguard Construction Adjust Utilities Johnson Construction Co.	<i>Knife River Construction</i>						
			SWPPP Tully Consulting Group Striping Chrisp Co. Grinding Della Grinding Paving Fabric Pacific Northwest Oil	<i>Robert Burns Construction</i>					
				Paving Fabric Pacific Northwest Oil Striping Chrisp Co. SWPPP Tully Consulting Group Concrete A&S Construction					



STAFF REPORT TO THE CITY COUNCIL

DATE: Regular Meeting of February 10, 2015

TO: Honorable Mayor and Members of the City Council

SUBMITTED BY: Scott Buenting, Associate Engineer, Capital Improvements Division *S/S*

APPROVED BY: Ron Bernal, Public Works Director/City Engineer *ROB*

SUBJECT: Ninth Street Roadway Improvements (P.W. 687)

RECOMMENDED ACTION

It is recommended that the City Council award the Ninth Street Roadway Improvements project to the low bidder, MCK Services, Inc., in the amount of \$645,330.

STRATEGIC PURPOSE

This item supports Strategy K-1 in the Strategic Plan: Ensure well maintained public facilities, rights-of-way and parks. By rehabilitating aging roadways, increasing pedestrian travel paths and improving surface storm drainage, this project is an integral part of operating and maintaining Antioch's assets to create a safe, beautiful, highly functional and desirable community.

FISCAL IMPACT

The 2014-15 Capital Improvement Budget includes \$673,000 of federal Surface Transportation Program (STP) grant funding and \$295,000 of Measure 'J' funds for the rehabilitation of West Ninth Street. The actual amount of grant funding to be received for this work will be 86% of the project cost to a maximum amount of \$673,000.

DISCUSSION

On January 20, 2015, four (4) bids were received and opened as shown on the attached tabulation. The low bid was submitted by MCK Services, Inc. of Concord in the amount of \$645,330. The bids have been checked and found to be without any errors or omissions.

This project will remove and replace the asphalt concrete over the full width of the roadway of West Ninth Street from 'A' to 'H' Streets. Portions of the roadway on West Ninth Street at the 'B', 'C', 'D', 'E' and 'F' Street intersections will be fully reconstructed. Eighteen new curb ramps will be installed. Deteriorating, damaged and uneven concrete curb, gutter, sidewalk and driveway approaches adjacent to the roadways will be replaced and various storm drainage improvements will be performed.

ATTACHMENTS

A: Tabulation of Bids

**CITY OF ANTIOCH
TABULATION OF BIDS**

JOB TITLE: Ninth Street Roadway Improvements
(P.W. 687)

BIDS OPENED: January 20, 2015 ~ 2:00 p.m.
City Council Chambers

	Engineer's Estimate	MCK Services, Inc. Concord	Bay Cities Paving & Grading, Inc. Concord	Knife River Construction Stockton	Graniterock San Jose
TOTAL BID PRICE	\$870,000.00	\$645,330.00	\$738,802.50	\$815,935.00	\$866,765.00


MCK Services, Inc.	Bay Cities Paving & Grading	Knife River Construction	Graniterock
<u>Paving Fabric</u> Telfer <u>Striping</u> Chrisp Company <u>Concrete</u> Rosas Brothers <u>Adjust Utilities</u> JCC, Inc.	<u>Paving Fabric</u> Telfer <u>Striping</u> Super Seal & Stripe AC Grinding ABSL Construction Adjust Utilities Johnson Construction Co. <u>Concrete</u> Vanguard Construction	SWPPP Tully Consulting Group <u>Striping</u> Chrisp Co. Grinding Delta Grinding Paving Fabric Pacific Northwest Oil	Concrete Vanguard Construction <u>Trucking</u> D&S Trucking Adjust Utilities Johnson Construction Co.




STAFF REPORT TO THE CITY COUNCIL

DATE: Regular Meeting of February 10, 2015

TO: Honorable Mayor and Members of the City Council

SUBMITTED BY: Scott Buenting, Associate Engineer, Capital Improvements Division 

APPROVED BY: Ron Bernal, Public Works Director/City Engineer 

SUBJECT: Raw Water Pipeline Inspection and Assessment
(P.W. 689)

RECOMMENDED ACTION

It is recommended that the City Council approve the proposal and authorize the City Manager to sign an agreement with Brown and Caldwell for engineering services related to the Raw Water Pipeline Inspection and Assessment project in the amount of \$364,074. This includes all three phases of work discussed below.

STRATEGIC PURPOSE

This item supports Strategy K-1 in the Strategic Plan by ensuring well maintained public facilities and Strategy K-2 by delivering high quality water to our customers. By proactively inspecting and assessing the condition of the City's raw water transfer facilities, this project is an important part of maintaining a highly functioning and reliable water system.

FISCAL IMPACT

The 2014-15 Capital Improvement Budget includes \$500,000 of Water Enterprise Funds for the inspection and assessment of the City's raw water pipelines.

DISCUSSION

The City currently obtains raw water from two sources; the San Joaquin River and the Contra Costa Canal. The City operates three separate raw water transmission lines: the River Pipeline, the Western Raw Water Pipeline and the Eastern Raw Water Pipeline. On August 26, 2014, staff mailed letters to seven (7) civil engineering firms requesting qualifications for inspecting and assessing the condition of the City's raw water transmission pipelines.

Phase I of this work will evaluate the status of the current cathodic protection of the raw water system and assess the need for additional cathodic protection facilities. The Western and Eastern Pipelines will be flushed to remove sediment and debris that has accumulated within the pipes. Flow testing will be performed on all three pipelines to determine if the pipelines are operating at full capacity.

In the event that the pipelines are discovered to be deteriorated or restricted, Phase II of this work would provide engineering services for performing additional investigation of

the system. Portions of the pipeline may be exposed to perform non-destruction testing to further examine the condition of the pipe and evaluate the need for repairs. Internal inspections of the pipeline may be performed to examine the pipes for defects and/or blockages.

Phase III of this work would develop technical specifications and provide engineering support for the cleaning of the pipelines if internal blockages are discovered during the internal investigation.

On October 2, 2014, statements of qualifications were received from Brown and Caldwell of Walnut Creek, Trident Environmental and Engineering, Inc. of Antioch and V&A Consulting Engineering of Oakland.

On November 4, 2014, Brown and Caldwell and V&A Consulting Engineering made presentations to a selection panel composed of Water Treatment Plant, Water Distribution and Capital Improvements staff. Based on the content of the qualifications and discussions during the interview process, the panel selected Brown and Caldwell as the most qualified firm to provide the services required for this project. Staff has subsequently met with representatives with Brown and Caldwell to develop the scope of work and cost proposal included in the attached Consultant Service Agreement.

ATTACHMENTS

A: Consultant Service Agreement

ATTACHMENT "A"

CONSULTING SERVICES AGREEMENT BETWEEN THE CITY OF ANTIOCH AND _____ [NAME OF CONSULTANT]

THIS AGREEMENT for consulting services is made by and between the City of Antioch ("City") and _____ ("Consultant") as of _____, 201_.

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant shall furnish all technical and professional services including labor, material, equipment, transportation, supervision and expertise to provide to City the services described in the Scope of Work attached as Exhibit A at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

- 1.1 **Term of Services.** The term of this Agreement shall begin on the date first noted above and shall end on _____, the date of completion specified in Exhibit A, and Consultant shall complete the work described in Exhibit A prior to that date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Consultant to complete the services required by this Agreement shall not affect the City' right to terminate the Agreement, as provided for in Section 8.
- 1.2 **Standard of Performance.** Consultant represents that it is experienced in providing these services to public clients and is familiar with the plans and needs of City. Consultant shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged in the geographical area in which Consultant practices its profession.
- 1.3 **Assignment of Personnel.** Consultant shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Consultant shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.
- 1.4 **Time.** Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Section 1.1 above and to satisfy Consultant's obligations hereunder.

Section 2. COMPENSATION. City hereby agree to pay Consultant a sum not to exceed _____, notwithstanding any contrary indications that may be contained in Consultant's proposal, for services to be performed and reimbursable costs incurred under this Agreement. In the event of a conflict between this Agreement and Consultant's proposal, attached as Exhibit A, regarding the amount of compensation, the Agreement shall prevail. City shall pay Consultant for services rendered pursuant to this Agreement at the time and in the manner set forth below. The payments specified below shall be the only payments from City to Consultant for services rendered pursuant to this Agreement.

Except as specifically authorized by City, Consultant shall not bill City for duplicate services performed by more than one person.

Consultant and City acknowledge and agree that compensation paid by City to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

2.1 Invoices. Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- Serial identifications of progress bills; i.e., Progress Bill No. 1 for the first invoice, etc.;
- The beginning and ending dates of the billing period;
- A Task Summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available under the Agreement, and the percentage of completion;
- At City' option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense;
- The total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services. The Consultant's signature.

2.2 Payment Schedule.

2.2.1 City shall make incremental payments, based on invoices received, [according to the payment schedule attached as Exhibit B], for services satisfactorily performed, and for authorized reimbursable costs incurred. City shall have 30 days from the receipt of an invoice that complies with all of the requirements of Section 2.1 to pay Consultant.

2.2.2 City shall pay the last 10% of the total sum due pursuant to this Agreement within sixty (60) days after completion of the services and submittal to City of a final invoice, if all services required have been satisfactorily performed.]

2.3 Total Payment. City shall pay for the services to be rendered by Consultant pursuant to this Agreement. City shall not pay any additional sum for any expense or cost whatsoever incurred by Consultant in rendering services pursuant to this Agreement.

In no event shall Consultant submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entire Agreement,

unless the Agreement is modified prior to the submission of such an invoice by a properly executed change order or amendment.

2.4 Hourly Fees. Fees for work performed by Consultant on an hourly basis shall not exceed the amounts shown on the following fee schedule: _____

2.5 Reimbursable Expenses. Reimbursable expenses are specified below, and shall not exceed _____ (\$ _____). Expenses not listed below are not chargeable to City. Reimbursable expenses are included in the total amount of compensation provided under this Agreement that shall not be exceeded.

Reimbursable Expenses are:

2.6 Payment of Taxes. Consultant is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.

2.7 Authorization to Perform Services. The Consultant is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.

Section 3. FACILITIES AND EQUIPMENT. Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement. City shall make available to Consultant only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein.

City shall furnish physical facilities such as desks, filing cabinets, and conference space, as may be reasonably necessary for Consultant's use while consulting with City employees and reviewing records and the information in possession of the City. The location, quantity, and time of furnishing those facilities shall be in the sole discretion of City. In no event shall City be obligated to furnish any facility that may involve incurring any direct expense, including but not limited to computer, long-distance telephone or other communication charges, vehicles, and reproduction facilities.

Section 4. INSURANCE REQUIREMENTS. Before beginning any work under this Agreement, Consultant, at its own cost and expense, shall procure insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work by the Consultant and its agents, representatives, employees, and subcontractors. Consultant shall provide proof satisfactory to City of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects to the City. Consultant shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Consultant's proposal. Consultant shall not allow any subcontractor to commence work on any subcontract until Consultant has obtained all insurance required herein for the subcontractor(s) and provided evidence thereof to City. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution. Insurers shall have an A.M. Best's rating of no less than A:VII unless otherwise accepted by the City in writing:

4.1. Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. If Consultant's services include work within 50 feet of a railroad right of way, the Contractor shall have removed any exclusion on their liability policy limiting coverage for work near a railroad, or shall provide a Railroad Protective Liability policy in favor of the City. Limits for such coverage shall be no less than \$5,000,000.

4.2. Automobile Liability Insurance. ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.

4.3. Workers' Compensation Insurance. as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.

4.4. Professional Liability (Errors and Omissions): Insurance appropriate to the Contractor's profession, with limit no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

4.5. Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions:

4.5.1 *Additional Insured Status.* The City, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).

4.5.2 *Primary Coverage.* For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

4.5.3 *Notice of Cancellation.* Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the City.

4.5.4 *Waiver of Subrogation.* Contractor hereby grants to City a waiver of any right to subrogation which any insurer of said Contractor may acquire against the City by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

4.5.5 *Deductibles and Self-Insured Retentions.* Any deductibles or self-insured retentions must be declared to and approved by the City. The City may require the Contractor to purchase

A4

coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

4.5.6 *Claims made policies.* If any of the required policies provide claims-made coverage:

4.5.6.1 The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work.

4.5.6.2 Insurance must be maintained and evidence of insurance must be provided **for at least five (5) years after completion of the contract of work.**

4.5.6.3 If coverage is canceled or non-renewed, and not replaced **with another claims-made policy form with a Retroactive Date prior to** the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of **five (5) years** after completion of contract work.

4.6. Certificate of Insurance and Endorsements. Contractor shall furnish the City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

4.7. Subcontractors. Contractor shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated in this Agreement, including but not limited to naming additional insureds.

4.8. Higher limits. If the contractor maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

4.9 Special Risks or Circumstances. City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage or other special circumstances.

4.10 Remedies. In addition to any other remedies City may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Consultant's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;

- Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES

5.1. CONSULTANT shall, to the fullest extent permitted by law, indemnify, defend (with counsel acceptable to the CITY) and hold harmless CITY, and its employees, officials, volunteers and agents ("Indemnified Parties") from and against any and all losses, claims, damages, costs and liability arising out of any personal injury, loss of life, damage to property, or any violation of any federal, state, or municipal law or ordinance, arising out of or resulting from the performance of this Agreement by CONSULTANT, its officers, employees, agents, volunteers, subcontractors or sub-consultants, excepting only liability arising from the sole negligence, active negligence or intentional misconduct of CITY.

5.2. In the event that Consultant or any employee, agent, sub-consultant or subcontractor of Consultant providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, sub-consultants or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

5.3. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply.

5.4. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration, and that these provisions survive the termination of this Agreement.

Section 6. STATUS OF CONSULTANT.

- 6.1 Independent Contractor.** At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of City. City shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subparagraph 1.3; however, otherwise City shall not have the right to control the means by which Consultant accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.
- 6.2 Consultant No Agent.** Except as City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

Section 7. LEGAL REQUIREMENTS.

- 7.1 Governing Law.** The laws of the State of California shall govern this Agreement.
- 7.2 Compliance with Applicable Laws.** Consultant and any subcontractors shall comply with all laws applicable to the performance of the work hereunder.
- 7.3 Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.
- 7.4 Licenses and Permits.** Consultant represents and warrants to City that Consultant and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. Consultant represents and warrants to City that Consultant and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Consultant and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from City.
- 7.5 Nondiscrimination and Equal Opportunity.** Consultant shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, sexual orientation or any other legally protected status, against any employee, applicant for employment, subcontractor, bidder

for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Consultant under this Agreement. Consultant shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Consultant thereby.

Consultant shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

- 7.6 **Prevailing Wages.** Should the scope of work fall under the requirements of the California Labor Code and implementing regulations for the payment of prevailing wages, then Consultant shall comply and pay prevailing wages.

Section 8. TERMINATION AND MODIFICATION.

- 8.1 **Termination.** City may cancel this Agreement at any time and without cause upon written notification to Consultant.

Consultant may cancel this Agreement upon 30 days' written notice to City and shall include in such notice the reasons for cancellation.

In the event of termination, Consultant shall be entitled to compensation for services performed to the effective date of termination; City, however, may condition payment of such compensation upon Consultant delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Consultant or prepared by or for Consultant or the City in connection with this Agreement.

- 8.2 **Extension.** City may, in their sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein. Consultant understands and agrees that, if City grants such an extension, City shall have no obligation to provide Consultant with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the Contract Administrator, City shall have no obligation to reimburse Consultant for any otherwise reimbursable expenses incurred during the extension period.

- 8.3 **Amendments.** The parties may amend this Agreement only by a writing signed by all the parties.

- 8.4 **Assignment and Subcontracting.** City and Consultant recognize and agree that this Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Consultant shall not subcontract any portion of the

performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Contract Administrator.

- 8.5 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Consultant shall survive the termination of this Agreement.
- 8.6 Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, City' remedies shall include, but not be limited to, the following:
- 8.6.1** Immediately terminate the Agreement;
 - 8.6.2** Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement; and/or
 - 8.6.3** Retain a different consultant to complete the work described in Exhibit A not finished by Consultant in which case the City may charge Consultant the difference between the cost to have a different consultant complete the work described in Exhibit A that is unfinished at the time of breach and the amount that City would have paid Consultant pursuant to Section 2 if Consultant had completed the work.

Section 9. KEEPING AND STATUS OF RECORDS.

- 9.1 Records Created as Part of Consultant's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City. Consultant hereby agrees to deliver those documents to the City upon termination of the Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use.
- 9.2 Confidentiality.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be kept confidential by Consultant. Such materials shall not, without the prior written permission of City, be used by Consultant for any purpose other than the performance of this Agreement nor shall such materials be disclosed publicly. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, shall be deemed confidential. Consultant shall not use the City's name or logo or photographs pertaining to the services under this Agreement in any publication without the prior written consent of the City.
- 9.3 Consultant's Books and Records.** Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents

evidencing or relating to charges for services or expenditures and disbursements charged to the City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.

- 9.4 Inspection and Audit of Records.** Any records or documents that Section 9.2 of this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds TEN THOUSAND DOLLARS (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of City, for a period of three (3) years after final payment under the Agreement.
- 9.5 Intellectual Property.** The City shall have and retain all right, title and interest, including copyright, patent, trade secret or other proprietary rights in all plans, specifications, studies, drawings, estimates, materials, data, computer programs or software and source code, enhancements, documents and any other works of authorship fixed in any tangible medium or expression, including but not limited to physical drawings or other data magnetically or otherwise recorded on computer media ("Intellectual Property") prepared or developed by or on behalf of Consultant under this Agreement. Consultant further grants to City a non-exclusive and perpetual license to copy, use, modify or sub-license any and all Intellectual Property otherwise owned by Consultant which is the basis or foundation for any derivative, collective, insurrectional or supplemental work created under this Agreement.

Section 10 MISCELLANEOUS PROVISIONS.

- 10.1 Venue.** In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Contra Costa or in the United States District Court for the Northern District of California.
- 10.2 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 10.3 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 10.4 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the parties.

10.5 Use of Recycled Products. Consultant shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.

10.6 Conflict of Interest. Consultant may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Consultant shall not employ any official of City in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*

Consultant hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of the City. If Consultant was an employee, agent, appointee, or official of City in the previous twelve months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of Government Code §1090 *et seq.*, the entire Agreement is void and Consultant will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Consultant will be required to reimburse the City for any sums paid to the Consultant. Consultant understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code § 1090 and, if applicable, will be disqualified from holding public office in the State of California.

10.7 Inconsistent Terms. If the terms or provisions of this Agreement conflict with or are inconsistent with any term or provision of any attachment or Exhibit attached hereto, then the terms and provisions of this Agreement shall prevail.

10.8 Solicitation. Consultant agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.

10.9 Contract Administration. This Agreement shall be administered by _____ ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.

10.10 Notices. Any written notice to Consultant shall be sent to:

Any written notice to City shall be sent to:

City Manager
City of Antioch
P. O. Box 5007
Antioch, CA 94531-5007

10.11 Integration. This Agreement, including the scope of work attached hereto and incorporated herein as Exhibit A, and all other attachments, represents the entire and integrated agreement between City and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral.

CITY:

CITY OF ANTIOCH

Steven Duran, City Manager

Attest:

Arne Simonsen, City Clerk of City of Antioch

Approved as to Form:

Lynn Tracy Nerland, City Attorney

[Two signatures are required for a corporation or one signature with the corporate bylaws indicating that one person can sign on behalf of the corporation]

CONSULTANT:

[NAME OF CONSULTANT]

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____



STAFF REPORT TO THE CITY COUNCIL

DATE: Regular Meeting of February 10, 2015
TO: Honorable Mayor and Members of the City Council
SUBMITTED BY: Lynn Tracy Nerland, City Attorney *LTN*
SUBJECT: Card Room Ordinance

RECOMMENDED ACTION

It is recommended that the City Council adopt the Ordinance amending sections 5-4.02, 5-4.03, 5-4.07 and 5-4.14 of the Antioch Municipal Code regarding the number of card rooms in Antioch and procedures for Card Room Licenses.

STRATEGIC PURPOSE

This action addresses the following long term goal and strategy:

Long Term Goal L: City Administration. Provide exemplary City administration.

Strategy L-4: Implement City Council policies and direction.

FISCAL IMPACT

Theoretically, a City-imposed limit on the number of card rooms in Antioch (beyond the State's current moratorium) could decrease potential revenues from future additional card rooms. On the other hand, some might argue that a possible increase in revenue, particularly given the currently low business license tax, could be offset by increased policing needs generated by additional card rooms.

DISCUSSION

No options are presented because the recommended action to adopt the Ordinance is consistent with the City Council's action on December 16, 2014 and Council's action on January 13, 2015 to introduce the Ordinance as presented in the staff report. By letter dated February 4, 2015, the Attorney General's Office approved the Ordinance.

As directed by the City Council, a subsequent ordinance will be prepared to address the location of card rooms in proximity to churches, schools, daycare centers and other card rooms.

ATTACHMENTS

A. Proposed Ordinance

LTN
Agenda Item #

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF ANTIOCH
AMENDING SECTIONS 5-4.02, 5-4.03, 5-4.07 AND 5-4.14 OF THE ANTIOCH
MUNICIPAL CODE REGARDING THE NUMBER OF CARD ROOMS IN ANTIOCH
AND PROCEDURES FOR CARD ROOM LICENSES**

The City Council of the City of Antioch does ordain as follows:

SECTION 1. Chapter 4 of Title 5 of the Antioch Municipal Code is amended to read as follows:

§ 5-4.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACT. California Business and Professions Code, Division 8, Chapter 5, known as The Gambling Control Act.

CARD ROOM. Any room, enclosure, or space furnished with a table or tables used, or intended to be used, as a card table for the playing of cards and similar games, the use of which table is available to the public, or any portion of the public.

CARD ROOM EMPLOYEE. Any natural person employed in the operation of a card room, including, without limitation, dealers, floor personnel, security employees, countroom personnel, cage personnel, collection personnel, surveillance personnel, data-processing personnel, maintenance personnel (but not personnel involved only in maintenance of the exterior of the premises), waiters and waitresses, and secretaries, or any other natural person whose employment duties require or authorize access to card rooms.

COMMISSION. The California Gambling Control Commission.

LICENSE. Any license issued by the Commission pursuant to the Act and regulations adopted pursuant to the Act authorizing the holder to operate a card room operation or be employed in the operation of a card room in a supervisory capacity.

WORK PERMIT. Any card, certificate, or permit issued by the Commission, authorizing the holder to be employed as a card room employee.

§ 5-4.02 NUMBER OF LOCATION AND LICENSES LIMITED

(A) It is hereby found and determined that the public health, safety, and welfare require that the number and location of licensed card rooms in the city be limited,

and the following regulations are required to fulfill such objectives:

(1) The total number of licensed card rooms permitted in the city shall be two, unless otherwise limited by the Act or subsequent state law.

(2) When, pursuant to the provisions of this section, a card room license can be granted, it shall be granted or denied in the numerical order in which the application was made, all applications being subject to the provisions of this chapter.

(3) No card room license shall be granted, nor shall the transfer of the location of an existing card room license be authorized, until a use permit has first been obtained. A use permit may be granted if the proposed location will be desirable to the public convenience or welfare and will be in harmony with the zoning provisions, the General Plan, and any specific plan and if the location is proper in relation to adjacent uses.

(4) No more than one card room license shall be issued for the downtown area. The downtown area is described as that territory bounded by the San Joaquin River to Sixth Street and L to A Streets. The Council finds that in the past an undue concentration of card rooms in the downtown area has helped lead to blighting conditions.

§ 5-4.03 LICENSE APPLICATION.

(A) *Application to Commission; requirements.* Every person making an application for a card room license shall submit an application under oath to the Commission for review and consideration, pursuant to the procedures and fee schedule in the Act and regulations set by the Commission. The City Council shall not consider an application for a City Card Room License until the Commission has granted a card room license to the applicant for the requested location.

(B) *Application to City; requirements.* Every person making an application for a card room license shall submit an application, under oath, to the Chief of Police, which shall include the following:

(1) The true names and addresses of the applicant and of all persons financially interested in the business. **PERSONS FINANCIALLY INTERESTED** shall include all persons who share in the profits of the business in any form;

(2) The criminal record, if any, of any of the persons named in the application;

(3) The fingerprints and photographs of the applicant and of all persons financially interested in the business;

- (4) Any other information required by the Chief of Police; and
- (5) Any application fee and/or deposit required under the Master Fee Schedule.

§ 5-4.04 LICENSE; DENIAL.

(A) *Denial by Commission; grounds.* The Commission, upon the receipt of the application, shall either grant or deny the application. Denial may be upon one or more of the grounds in the act and/or regulations set by the Commission.

(B) *Denial by the Council; grounds.* The Council, upon the receipt of the report of the Chief of Police, shall either grant or deny the application. Denial may be upon one or more of the following grounds:

(1) That the applicant or any person financially interested in the business has been convicted of a felony;

(2) That, in the opinion of the Council, the applicant or any person financially interested in the business is not of good moral character;

(3) That any of the information furnished or required in the application was false or omitted with the intent to conceal the facts; and

(4) That, in the opinion of the Council, the proposed location for the card room would be incompatible with the uses being made of the property in the immediate vicinity and injurious to the health, safety, or morals of the people of the city.

(C) *Denial; effect.* Denial of the application shall cause the applicant to lose his place on the numerical ranking list. If the applicant desires future consideration, he shall file a new application, which shall be placed at the bottom of the numerical ranking of applicants.

§ 5-4.05 LICENSE; ISSUANCE TO ESTABLISHED BUSINESSES ONLY.

In addition to the other requirements contained in this chapter, no license shall be issued for a card room other than in an established place of business of sufficient size and volume that the already established business is the major business of the place rather than the business of operating such card room.

§ 5-4.06 LICENSE FEE.

(A) Every person conducting, using, and/or maintaining on premises

owned, used, or leased by him any card room or card tables which may be used by patrons of the premises shall pay a license fee in the amount established in the Master Fee Resolution and the fee schedule in the Act and regulations set forth by the Commission.

(B) The license fees for card tables shall be in addition to any other license fees or taxes imposed upon the established business therein.

§ 5-4.07 FAILURE TO PAY FEES; REVOCATION OF LICENSES.

If any person conducting a card room shall fail to pay the fees specified by § 5-4.06 of this article or other fees, rates or taxes pursuant to the Antioch Municipal Code or Master Fee Schedule following notice from the Finance Department that such fees or taxes are delinquent, the Director of Financial Services shall so notify the Chief of Police. The Chief of Police shall notify the licensee of the intention of the Chief of Police to revoke the card room license for failure to pay the fees, rates or taxes. If such fees, rates or taxes are not then paid within 10 calendar days after such notice, the Chief of Police shall revoke such license. During the 10 calendar day time period, the licensee may have the opportunity to present to the Chief of Police evidence that the amount of fees, rates or taxes being assessed is incorrect. The Chief of Police may order the adjustment of the fees, rates or taxes being imposed. If payment is made prior to revocation, a 50% penalty shall be added to the fees, rates and taxes due and owing. The remedy of revocation shall be in addition to the civil or criminal remedies available to the city.

§ 5-4.08 LICENSE NONTRANSFERABLE; EXCEPTIONS.

(A) Except as provided in § 5-4.08 of this chapter, no card room license shall be assignable or transferable, except that such license may be transferable to the purchaser of that established business where the license is used and operated; however, the transferee, before operating the card room, shall obtain permission for the card room license transfer from the Council in the same manner as for an original issuance, the Chief of Police forwarding his report and recommendation to the Council prior to action being taken. The approval or disapproval of any card room license transfer permitted by this section shall be within the sole discretion of the Council based on the criteria established by this chapter. If a request for a transfer has not been made within 60 days after the business sale takes place, the card room license may be distributed to another person.

(B) In the event the existing business to which the card room license is necessarily attached reverts to the former card room license holder because of the nonpayment of the purchase price or by reason of contract, operation of law,

or otherwise, the card room license may be transferred to the former card room license holder subject to Council approval as specified for all transfers. In all other cases, the license shall automatically expire. The provisions of this section shall be broadly construed so as to give effect to the intent thereof.

§ 5-4.09 SUSPENSION AND REVOCATION OF LICENSE.

(A) The Council may suspend or revoke a card room license on any of the grounds set forth in § 5-4.04 of this chapter, on the ground that the card room business has become the main business of the establishment, or on the ground that the licensee has violated a provision of this chapter. If a card room license is not used by the operation of card tables on the premises to which the card room license is attached for a period of six consecutive months, the card room license shall automatically expire.

(B) However, a card room license may be moved from one established business location to another by the licensee provided the new location has been first approved by the Council within six months after card room activity has ceased at the premises to which the card room license was last attached. The Council may grant an additional six months for a business relocation upon a showing of hardship by the licensee.

§ 5-4.10 CARD ROOM WORK PERMIT REQUIRED.

No person shall work as a card room employee without first obtaining a work permit from the Commission, nor shall any licensee of a card room employ any person as a card room employee who does not possess a valid work permit.

§ 5-4.11 CARD ROOM WORK PERMIT APPLICATION; FEE.

An applicant for a card room work permit shall submit his or her application to the Commission for review and consideration, pursuant to the procedures and fee schedule in the act and regulations set by the Commission.

§ 5-4.12 CARD ROOM WORK PERMIT NONTRANSFERABLE.

No card room work permit shall be assignable or transferable.

§ 5-4.13 CARD ROOM WORK PERMIT; SUSPENSION AND REVOCATION.

The Chief of Police may temporarily suspend a work permit on the ground that the permittee has violated any provision of this chapter or the Act, pending action by the Commission.

§ 5-4.14 RULES AND REGULATIONS.

No person, either as a licensee or employee, shall maintain, operate, or permit any act within a card room in violation of any of the following regulations:

- (A) Not more than one card room shall be located at one business location
- (B) Four card tables shall be automatically allowed per card room. The Council, in its discretion, may allow up to six card tables per card room.
- (C) The number of players permitted at one card table shall be as prescribed by state law.
- (D) Card rooms shall be open to police inspection during all hours of operation.
- (E) Each card table, during the time of play at such table, shall have assigned to it a person holding a valid work permit. Such person shall be in charge of, supervise, and conduct the game strictly in accordance with the laws of the state and the provisions of this chapter.
- (F) Only game authorized by state law to be played shall be permitted to be played in any card room.
- (G) Only table stakes shall be permitted.
- (H) No person under the age of 21 shall be permitted at any card table, or participate in any game, or remain in a card room.
- (I) No intoxicated person shall be permitted in any card room.
- (J) The licensee shall post in every card room, in letters plainly visible throughout the room, signs stating the hourly rate or cost per hand charged for the use of the tables in such card room and each other of the regulations set forth in this section as the Chief of Police may require.
- (K) Each card room shall adopt a schedule of the hours of operation, after the schedule has been approved by the Chief of Police. Such approved schedule of hours shall be clearly posted at the gambling establishment so as to give law enforcement and patrons adequate notice of the hours of operation. Unless otherwise restricted, a card room may be allowed to operate 24 hours each day.

(L) (1) No player in any licensed Antioch card room shall be permitted to wager or raise a wager by more than the following amounts:

(a) \$200 for individual bets in Blackjack or California games that feature a rotating player-dealer position, except for games described in division (c) which shall have higher limits;

(b) \$200 for individual bets in Limit Poker games;

(c) \$500 for individual bets in No Limit and Double Hand Poker games; and

(d) \$50 for individual bets in any other card room game permitted by California law.

(2) Any licensed card room may increase their current wagering limits as stated above, provided, however, that no card room may increase its wager limit in any amount for any game until it has received prior approval from the Chief of Police. During hours of operation, card rooms shall clearly post the wagering limit rules at the tables where the games are offered, to provide patrons adequate notice of those rules.

(M) Each card room shall be responsible and liable for its patrons' safety and security in and around the card room. Each card room shall adopt an operations plan, including security guards, video surveillance, and other measures to provide for the safety and security of patrons, after the plan has been approved by the Chief of Police.

§ 5-4.15 CONDUCTING UNLICENSED CARD ROOMS UNLAWFUL.

No person shall play, deal, carry on, open, or cause to be opened, conduct, or bet at or against any game not prohibited by the laws of the state with cards, dice, or any device for money, checks, credit, or other representative of value, except when played in a card room licensed pursuant to the provisions of this chapter.

§ 5-4.16 GAMES PROHIBITED BY STATE LAWS UNLAWFUL.

The provisions of this chapter shall not be construed to permit the licensing of any card room for the playing of any game prohibited by the laws of the state.

§ 5-4.17 EXEMPTIONS.

Any nonprofit society, club, or fraternal, labor, or other organization, having

adopted bylaws and duly elected directors and members, may be excluded from compliance with the provisions of this chapter by applying to the Council and if the Council finds that the tables are for the exclusive use of the members of the organization and that no charge is made for the use of card room facilities.

SECTION 2. CEQA. This Ordinance is not a project subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15378. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guideline section 15061(b)(3) because it can be seen with certainty that there is no possibility that it may have a significant effect on the environment.

SECTION 3. Severability. Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

SECTION 4. Effective Date. This Ordinance shall take effect thirty (30) days after adoption as provided by Government Code Section 36937.

SECTION 5. Publication; Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published according to law.

* * * * *

I HEREBY CERTIFY that the foregoing ordinance was introduced at a regular meeting of the City Council of the City of Antioch held on January 13, 2015 and passed and adopted at a regular meeting thereof, held on _____, by the following vote:

AYES:
NOES:
ABSENT:

MAYOR OF THE CITY OF ANTIOCH

ATTEST:

CITY CLERK OF THE CITY OF ANTIOCH



STAFF REPORT TO THE SUCCESSOR AGENCY TO THE ANTIOCH DEVELOPMENT AGENCY OF THE CITY OF ANTIOCH

DATE: Regular Meeting of February 10, 2015

TO: Members of the Successor Agency to the Antioch Development Agency of the City of Antioch

SUBMITTED BY: Dawn Merchant, Finance Director

SUBJECT: Recognized Obligation Payment Schedule (15-16A) for the Successor Agency to the Antioch Development Agency of the City of Antioch

RECOMMENDED ACTION

It is recommended that the Successor Agency to the Antioch Development Agency of the City of Antioch adopt the resolution approving the Recognized Obligation Payment Schedule for the period of July 2015 through December 2015 (ROPS 15-16A).

STRATEGIC PURPOSE

This action meets Long Term Goal N, Financial Services; specifically addressing Strategy N-2 by ensuring financial reports are accurate and timely. The ROPS is required to be submitted to the Department of Finance by March 3, 2015.

FISCAL IMPACT

Approval of the ROPS and enforceable obligations listed thereupon will ensure that the Successor Agency receives adequate funding from the Redevelopment Property Tax Trust Fund administered through Contra Costa County to meet all outstanding obligations due during the ROPS period.

DISCUSSION

As a result of the passage of Assembly Bill 1X26, or Dissolution Act, as amended by Assembly Bill 1484, the Successor Agency to the Antioch Development Agency of the City of Antioch (Successor Agency) is required to prepare a Recognized Obligation Payment Schedule (ROPS) that outlines administrative, contractual and bonded indebtedness expenses of the Successor Agency every six months until all obligations of the former Antioch Development Agency are satisfied. The ROPS incorporates obligations on the Enforceable Obligations Schedule as approved by the City of Antioch as Successor Agency in January 2012. The ROPS also includes the portion of the Antioch Public Financing Authority 2015A bonds being issued in February related to the refinancing of the Antioch Public Financing Authority 2002 Series A&B Lease Revenue Bonds. The City, Successor Agency and Oversight Board approved a reimbursement agreement between the City and Successor Agency to reimburse the City for debt service expenditures related to the refinanced 2002A&B bonds. This debt is now an

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enforceable obligation of the Successor Agency. The first debt service payment subject to the agreement is due November 1, 2015.

The ROPS 15-16A for the period of July 2015 through December 2015 is required to be submitted to the Department of Finance (DOF) by March 3, 2015. A draft ROPS for this period is attached (Attachment A). The ROPS 15-16A will be used by the County Auditor-Controller to allocate property tax increment to the Successor Agency to pay the obligations listed on the ROPS due for the six month period. The ROPS is subject to certification by the County Auditor Controller, approval of the State Controller, State Department of Finance and the Oversight Board. The Oversight Board is scheduled to review this ROPS on February 23, 2015. Once approved, the City as Successor Agency will then only be able to pay those obligations listed on the approved ROPS.

Attached for consideration and approval are a resolution and ROPS 15-16A (Attachment A), detailing the continuing obligations of the former Antioch Development Agency, along with the newly issued bonds, with payments from July through December 2015. The ROPS is segregated into five pages, with the first page providing a summary of funding requested. The second page details all obligations of the Successor Agency to be reimbursed from the Redevelopment Property Tax Trust Fund established at the County level. The third page provides cash balance totals (which outlines any funds retained, being set aside for future approved obligations or unspent from the prior period ROPS distribution). The fourth page provides a reconciliation of authorized to actual expenditures for the approved July through December 2014 ROPS, and the fifth page provides notes to the obligations listed that the City wants to provide further clarification for.

ATTACHMENTS

- A.** Resolution Approving the Recognized Obligation Payment Schedule for the Period of July 2015 through December 2015 (ROPS 15-16A).
 - 1)** Recognized Obligation Payment Schedule for the Period of July 2015 through December 2015 (ROPS 15-16A)

SA RESOLUTION NO. 2015/

RESOLUTION OF THE SUCCESSOR AGENCY TO THE ANTIOCH DEVELOPMENT AGENCY OF THE CITY OF ANTIOCH APPROVING THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE (“ROPS”) FOR THE SUCCESSOR AGENCY FOR THE PERIOD OF JULY 2015 THROUGH DECEMBER 2015 (ROPS 15-16A)

Whereas, pursuant to the Community Redevelopment Law (Health and Safety Code Sections 33000 *et seq.*), on July 15, 1975, the City Council of the City of Antioch (“City”) adopted the Antioch Community Redevelopment Plan (as amended) , which set forth the Redevelopment Plan of the Antioch Community Redevelopment Project Area to be implemented by the Antioch Development Agency (“Agency”); and

Whereas, in June 2011, as part of the 2011-2012 State budget bill, the California State Legislature enacted, and the Governor signed, Assembly Bill 1X 26 to dissolve redevelopment agencies; and

Whereas, given the State-mandated dissolution of the Antioch Development Agency on February 1, 2012 pursuant to Assembly Bill 1x 26, the City Council adopted a resolution confirming its intention to serve as the Successor Agency to the Antioch Development Agency (“Successor Agency”) and as Housing Successor (“Housing Successor”), pursuant to California Health and Safety Code section 34173(d); and

Whereas, Health and Safety Code section 34177(l)(1) provides that Successor Agencies are required to prepare a Recognized Obligation Payment Schedule (“ROPS”) before each six-month fiscal period identifying enforceable obligations and sources of payment; and

Whereas, California Health and Safety Code Section 34177.5(a) authorizes successor agencies to refund outstanding bonds or other indebtedness provided that (i) the total interest cost to maturity on the refunding bonds or other indebtedness plus the principal amount of the refunding bonds or other indebtedness shall not exceed the total remaining interest cost to maturity on the bonds or other indebtedness to be refunded plus the remaining principal amount of the bonds or other indebtedness to be refunded, and (ii) the principal amount of the refunding bonds or other indebtedness shall not exceed the amount required to defease the refunded bonds or other indebtedness, to establish customary debt service reserves, and to pay related costs of issuance; and

Whereas, on November 25, 2014 the Successor Agency approved entering into a reimbursement agreement with the City of Antioch in connection with the 2015 Refunding Bonds and the Facility Lease (the “Reimbursement Agreement”) pursuant to which the Successor Agency will make payments equal to the 2015 Refunding Base Rental Payments; and the amounts payable by the Successor Agency under the Reimbursement Agreement shall meet the requirements of California Health and Safety Code Section 34177.5(a); and

Whereas, an enforceable obligation for the 2015A Lease Revenue Refunding Bonds is hereby approved to be added to the ROPS beginning with the ROPS 15-16A period;

NOW THEREFORE BE IT RESOLVED THAT the Successor Agency to the Antioch Development Agency of the City of Antioch hereby approves the attached Recognized Obligation Payment Schedule of the City of Antioch as Successor Agency for the period of July 2015 through December 2015 (ROPS 15-16A).

* * * * *

The foregoing resolution was passed and adopted by the Successor Agency to the Antioch Development Agency of the City of Antioch at a regular meeting thereof, held on the 10th day of February, 2015 by the following vote:

AYES:
NOES:
ABSENT:

ARNE SIMONSEN, RECORDING SECRETARY

Recognized Obligation Payment Schedule (ROPS 15-16A) - Summary

Filed for the July 1, 2015 through December 31, 2015 Period

Name of Successor Agency: Antioch
Name of County: Contra Costa

Current Period Requested Funding for Outstanding Debt or Obligation		Six-Month Total
Enforceable Obligations Funded with Non-Redevelopment Property Tax Trust Fund (RPTTF) Funding		
A Sources (B+C+D):		\$ 34,695
B Bond Proceeds Funding (ROPS Detail)		-
C Reserve Balance Funding (ROPS Detail)		-
D Other Funding (ROPS Detail)		34,695
E Enforceable Obligations Funded with RPTTF Funding (F+G):		\$ 2,361,056
F Non-Administrative Costs (ROPS Detail)		2,236,056
G Administrative Costs (ROPS Detail)		125,000
H Current Period Enforceable Obligations (A+E):		\$ 2,395,751
Successor Agency Self-Reported Prior Period Adjustment to Current Period RPTTF Requested Funding		
I Enforceable Obligations funded with RPTTF (E):		2,361,056
J Less Prior Period Adjustment (Report of Prior Period Adjustments Column S)		(139,534)
K Adjusted Current Period RPTTF Requested Funding (I-J)		\$ 2,221,522
County Auditor Controller Reported Prior Period Adjustment to Current Period RPTTF Requested Funding		
L Enforceable Obligations funded with RPTTF (E):		2,361,056
M Less Prior Period Adjustment (Report of Prior Period Adjustments Column AA)		-
N Adjusted Current Period RPTTF Requested Funding (L-M)		2,361,056

Certification of Oversight Board Chairman:
Pursuant to Section 34177 (m) of the Health and Safety code, I hereby certify that the above is a true and accurate Recognized Obligation Payment Schedule for the above named agency.

Name Title
/s/ _____
Signature Date

Recognized Obligation Payment Schedule (ROPS 15-16A) - ROPS Detail
July 1, 2015 through December 31, 2015
 (Report Amounts in Whole Dollars)

A	B	C	D	E	F	G	H	I	J	K					P	
										M						Six-Month Total
										N			O			
Item #	Project Name / Debt Obligation	Obligation Type	Contract/Agreement Execution Date	Contract/Agreement Termination Date	Payee	Description/Project Scope	Project Area	Total Outstanding Debt or Obligation	Retired	Bond Proceeds	Reserve Balance	Other Funds	Non-Admin	Admin		
								\$ 47,959,032								
1	2000 Tax Allocation Bonds	Bonds Issued On or Before 12/31/10	11/1/2000	9/1/2017	Bank of New York	Bond issue to fund non-housing projects	Area 1	4,225,600	N			34,695	1,302,655	125,000	\$ 2,395,751	
2	2009 Tax Allocation Bonds	Bonds Issued On or Before 12/31/10	8/1/2009	9/1/2027	Bank of New York	Bond issue to fund non-housing projects	Area 1	1,877,141	N				125,279		\$ 125,279	
4	2002 Lease Revenue Bonds	Revenue Bonds Issued On or Before 12/31/10	3/1/2002	1/1/2032	Bank of New York	Bond issue to fund non-housing projects	Area 1,2,3,4,4.1		Y						\$ -	
5	2002 Lease Revenue Bonds	Reserves	3/1/2002	1/1/2032	Bank of New York	Reserve for future bond payment	Area 1,2,3,4,4.1		Y						\$ -	
6	Bond administration	Fees	7/1/1994	1/1/2032	Bank of New York	Bond administrative fees	Area 1,2,3,4,4.1	250,000	N				8,500		\$ 8,500	
7	Marina Subsidy	Miscellaneous	1/1/2002	1/1/2020	City of Antioch	Marina subsidy	Area 1		N						\$ -	
12	Administrative costs	Admin Costs	2/1/2012	12/31/2032	City of Antioch/consultants	Administrative expenses for agency	Area 1,2,3,4,4.1	8,750,000	N					125,000	\$ 125,000	
15	Housing Fund Deficit	LMIHIF Loans	1/14/2013	1/31/2069	City of Antioch Housing Successor	Repayment for housing fund deferred set-aside	Area 1	3,349,891	N				222,318		\$ 222,318	
16	Markley Creek Culvert	Improvement/Infrastructure	6/15/2011	6/30/2013	City of Antioch for contractual costs	Markley Creek Culvert Improvements to be paid from 2002 Lease Revenue Bond proceeds	Area 1	1,000,000	N						\$ -	
17	Property Maintenance	Property Maintenance	9/10/2013	9/10/2023	City of Antioch	Property maintenance for successor agency parcels until disposed of per long range property management plan	Area 1,2,3,4,4.1	150,572	N				76,040		\$ 76,040	
18	2015A Lease Revenue Bonds	Bonds Reimbursement Agreements	2/1/2015	5/1/2032	City of Antioch	Bonds issued to refinance 2002 Lease Revenue Bonds	Area 1,2,3,4,4.1	28,355,828	N				501,264		\$ 501,264	
19									N						\$ -	
20									N						\$ -	
21									N						\$ -	
22									N						\$ -	
23									N						\$ -	
24									N						\$ -	
25									N						\$ -	
26									N						\$ -	
27									N						\$ -	
28									N						\$ -	
29									N						\$ -	
30									N						\$ -	
31									N						\$ -	
32									N						\$ -	
33									N						\$ -	
34									N						\$ -	
35									N						\$ -	
36									N						\$ -	
37									N						\$ -	
38									N						\$ -	
39									N						\$ -	
40									N						\$ -	
41									N						\$ -	
42									N						\$ -	
43									N						\$ -	
44									N						\$ -	

Recognized Obligation Payment Schedule (ROPS 15-16A) - Report of Cash Balances

(Report Amounts in Whole Dollars)

Pursuant to Health and Safety Code section 34177 (I), Redevelopment Property Tax Trust Fund (RPTTF) may be listed as a source of payment on the ROPS, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation. For tips on how to complete the Report of Cash Balances Form, see https://rad.dof.ca.gov/rad-sa/pdf/Cash_Balance_Agency_Tips_Sheet.pdf .									
A	B	C	D	E	F	G	H	I	
Cash Balance Information by ROPS Period		Fund Sources					Comments		
		Bond Proceeds		Reserve Balance		Other			RPTTF
		Bonds Issued on or before 12/31/10	Bonds Issued on or after 01/01/11	Prior ROPS period balances and DDR RPTTF balances retained	Prior ROPS RPTTF distributed as reserve for future period(s)	Rent, Grants, Interest, Etc.			Non-Admin and Admin
ROPS 14-15A Actuals (07/01/14 - 12/31/14)									
1	Beginning Available Cash Balance (Actual 07/01/14)	1,276,783				93,822	266,737		
2	Revenue/Income (Actual 12/31/14) RPTTF amounts should tie to the ROPS 14-15A distribution from the County Auditor-Controller during June 2014	14				34,695	2,739,319		
3	Expenditures for ROPS 14-15A Enforceable Obligations (Actual 12/31/14) RPTTF amounts, H3 plus H4 should equal total reported actual expenditures in the Report of PPA, Columns L and Q					6,683	2,770,475		
4	Retention of Available Cash Balance (Actual 12/31/14) RPTTF amount retained should only include the amounts distributed as reserve for future period(s)	1,276,797							
5	ROPS 14-15A RPTTF Prior Period Adjustment RPTTF amount should tie to the self-reported ROPS 14-15A PPA in the Report of PPA, Column S	No entry required						139,534	
6	Ending Actual Available Cash Balance C to G = (1 + 2 - 3 - 4), H = (1 + 2 - 3 - 4 - 5)	\$ -	\$ -	\$ -	\$ -	\$ 121,834	\$ 96,047		
ROPS 14-15B Estimate (01/01/15 - 06/30/15)									
7	Beginning Available Cash Balance (Actual 01/01/15) (C, D, E, G = 4 + 6, F = H4 + F4 + F6, and H = 5 + 6)	\$ 1,276,797	\$ -	\$ -	\$ -	\$ 121,834	\$ 235,581		
8	Revenue/Income (Estimate 06/30/15) RPTTF amounts should tie to the ROPS 14-15B distribution from the County Auditor-Controller during January 2015	2					658,498		
9	Expenditures for ROPS 14-15B Enforceable Obligations (Estimate 06/30/15)	276,799				87,139	840,550		
10	Retention of Available Cash Balance (Estimate 06/30/15) RPTTF amount retained should only include the amounts distributed as reserve for future period(s)	1,000,000							
11	Ending Estimated Available Cash Balance (7 + 8 - 9 -10)	\$ -	\$ -	\$ -	\$ -	\$ 34,695	\$ 53,529		

Recognized Obligation Payment Schedule (ROPS 15-16A) - Report of Prior Period Adjustments
 Reported for the ROPS 14-15A (July 1, 2014 through December 31, 2014) Period Pursuant to Health and Safety Code (HSC) section 34186 (a)
 (Report Amounts in Whole Dollars)

ROPS 14-15A Successor Agency (SA) Self-reported Prior Period Adjustments (PPA): Pursuant to HSC Section 34186 (a), SAs are required to report the differences between their actual available funding and their actual expenditures for the ROPS 14-15A (July through December 2014) period. The amount of Redevelopment Property Tax Trust Fund (RPTTF) approved for the ROPS 15-16A (July through December 2015) period will be offset by the SA's self-reported ROPS 14-15A prior period adjustment. HSC Section 34186 (a) also specifies that the prior period adjustments self-reported by SAs are subject to audit by the county auditor-controller (CAC) and the State Controller.

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	
Item #	Project Name / Debt Obligation	Non-RPTTF Expenditures						RPTTF Expenditures											Net SA Non-Admin and Admin PPA (Amount Used to Offset ROPS 15-16A Requested RPTTF)	SA Comments
		Bond Proceeds		Reserve Balance		Other Funds		Non-Admin					Admin							
		Authorized	Actual	Authorized	Actual	Authorized	Actual	Authorized	Available RPTTF (ROPS 14-15A distributed + all other available as of 07/1/14)	Net Lesser of Authorized / Available	Actual	Difference (If K is less than L, the difference is zero)	Authorized	Available RPTTF (ROPS 14-15A distributed + all other available as of 07/1/14)	Net Lesser of Authorized / Available	Actual	Difference (If total actual exceeds total authorized, the total difference is zero)	Net Difference (M+R)		
		\$ -	\$ -	\$ -	\$ -	\$ 6,683	\$ 6,683	\$ 2,785,009	\$ 2,785,009	\$ 2,785,009	\$ 2,715,912	\$ 69,097	\$ 125,000	\$ 125,000	\$ 125,000	\$ 54,563	\$ 70,437	\$ 139,534		
1	2000 Tax Allocation	-	-	-	-	-	-	1,311,234	1,311,234	\$ 1,311,234	1,311,234	\$ -						\$ -		
2	2009 Tax Allocation	-	-	-	-	-	-	123,954	123,954	\$ 123,954	123,954	\$ -						\$ -		
4	2002 Lease Revenue Bonds	-	-	-	-	6,683	6,683	1,079,476	1,079,476	\$ 1,079,476	1,079,476	\$ -						\$ -		
5	2002 Lease Revenue Bonds	-	-	-	-	-	-	-	-	\$ -	-	\$ -						\$ -		
6	Bond	-	-	-	-	-	-	6,000	6,000	\$ 6,000	6,000	\$ -						\$ -		
7	Marina Subsidy	-	-	-	-	-	-	-	-	\$ -	-	\$ -						\$ -		
8	Vista Diablo Rent Subsidy	-	-	-	-	-	-	-	-	\$ -	-	\$ -						\$ -		
12	Administrative costs	-	-	-	-	-	-	-	-	\$ -	-	\$ -						\$ -		
15	Housing Fund Deficit	-	-	-	-	-	-	187,958	187,958	\$ 187,958	187,958	\$ -						\$ -		
16	Markley Creek Culvert	-	-	-	-	-	-	-	-	\$ -	-	\$ -						\$ -		
17	Property Maintenance	-	-	-	-	-	-	76,387	76,387	\$ 76,387	7,290	\$ 69,097						\$ 69,097		
										\$ -		\$ -						\$ -		
										\$ -		\$ -						\$ -		

Recognized Obligation Payment Schedule (ROPS 15-16A) - Notes	
July 1, 2015 through December 30, 2015	
Item #	Notes/Comments
4	2002 Lease Revenue Bonds were refinanced in February 2015. Successor Agency and City of Antioch entered into a new reimbursement agreement for debt issued to refinance. DOF approved OB action approving reimbursement agreement. Item #18 has been added to ROPS for the new agreement.
6	Amount reported for six month period is estimate of amount to be paid.
12	Amount reported for six month period estimate of amount to be paid, based on one half of maximum allowable that may be claimed.
16	This project was paid for with bond proceeds from the 2002 Lease Revenue Bonds. Transfer of funds took place after January 1, 2011. DOF determination on transfer stated that this can be requested on a subsequent ROPS after a finding of completion is received. This obligation is pending a finding of completion.
17	Amount claimed represents estimated reimbursement of costs associated with property maintenance of successor agency properties for the six month period. There is a loan and reimbursement agreement with the City of Antioch.
18	2015A Lease Revenue Bonds were issued in February 2015 to refinance 2002 Lease Revenue Bonds. Successor Agency and City of Antioch have entered into a reimbursement agreement for repayment of obligation. Approved by OB and subsequently DOF.



STAFF REPORT TO THE CITY COUNCIL

DATE: Regular Meeting of February 10, 2015

TO: Honorable Mayor and Members of the City Council

SUBMITTED BY: Tina Wehrmeister, Community Development Director *TW*

SUBJECT: Public Hearing for Ordinance Establishing Zoning Regulations for Tobacco and Paraphernalia Retailers

RECOMMENDED ACTION

It is recommended that the City Council take the following actions before the current moratorium on new or expanded tobacco and paraphernalia retailers expires:

1. Approve by motion the reading of the ordinance by title only; and
2. Introduce the Ordinance defining and establishing zoning regulations for Tobacco and Paraphernalia Retailers (Attachment "A").

The Planning Commission recommended approval of this ordinance on February 4, 2015 by a vote of 4-0 with one Commissioner absent and two vacant positions.

STRATEGIC PURPOSE

This action implements several Strategic Plan Long Term Goals and Strategies including:

- Long Term Goal G: Planning, Entitlements and Permitting. This action establishes appropriate location criteria and entitlement requirements for Tobacco and Paraphernalia Retailers.
- Long Term Goal A: Crime Reduction. Appropriate location and conditional permits for Tobacco and Paraphernalia Retailers will address community crime impacts discussed in the attached moratorium staff reports (Attachment "C").

Strategy L-4: Implement City Council policies and direction. The recommended action implements the City Council's direction to study this matter and propose appropriate land use regulations.

FISCAL IMPACT

There is no direct fiscal impact with the adoption of the proposed ordinance.

If the proposed ordinance is adopted, Tobacco and Paraphernalia Retailers will no longer be able to locate in zones which are generally located closer to and intended to serve residential neighborhoods; therefore, there may be negative sales tax and property tax impacts related to the revised location criteria. However, the City Council previously found that the negative impacts from such businesses outweighed any potential loss of revenue to the City. Additionally, the proposed ordinance is also expected to lessen impacts to limited Police resources.

DISCUSSION

Background - On May 28, 2013, the City Council adopted an urgency ordinance establishing a temporary moratorium on the issuance of permits, licenses, or approvals for construction, establishment or operation of Tobacco and Paraphernalia Retailer businesses. The Council extended the moratorium on July 9, 2013 and on April 22, 2014. This moratorium cannot be extended beyond April 22, 2015. The staff reports for these meetings (Attachment "C") and Ordinance 2086-C-S (Attachment "B") are included and provide more details regarding the issues and need to establish zoning regulations to address public safety, health and welfare issues raised by Tobacco and Paraphernalia Retailers.

The Planning Commission recommended approval of this ordinance on February 4th. The Planning Commission also recommended that staff provide a list of currently operating Tobacco and Paraphernalia Retailers so that the record is clear as to which businesses are existing and grandfathered. Staff will prepare this list and will provide it to the City Council prior to the February 10th meeting for entry into the record.

Staff is bringing the zoning ordinance forward to ensure that the City has regulations in place regarding appropriate locations for Tobacco and Paraphernalia Retailers before the moratorium expires. Existing State and local laws that govern operations still apply to existing businesses. It is anticipated that the locational requirements and Use Permit conditions will decrease the impact of new Tobacco and Paraphernalia Retailer businesses on Police and Code Enforcement services. If problems continue, then staff will review the existing regulations for the operation of Tobacco and Paraphernalia Retailer businesses and may make a future recommendation focused on operational issues to the City Council.

Proposed Zoning Ordinance - The proposed ordinance formally codifies the definitions of Tobacco and Paraphernalia Retailers and Paraphernalia. The substantive additions to the Code are included in Sections 2, 3 and 4 of the proposed ordinance and are discussed below:

- Section 9-5.203 defines Tobacco and Paraphernalia Retailers as an establishment that sells Tobacco Products, Electronic Smoking Devices or Paraphernalia. Retail businesses larger than 5,000 s.f. having less than 5% of their sales area devoted to tobacco products, electronic smoking devices, or paraphernalia are exempt from this definition. Definitions have been expanded to include electronic cigarettes (sometimes referred to as e-cigarettes) and vaping products.

- Section 9-5.3803, Table of Land Use Regulations, would be amended to list Tobacco and Paraphernalia Retailers and require a Use Permit in the Regional Commercial Zone (C-3). Tobacco and Paraphernalia Retailers are commercial in nature but due to potential impacts described in the previous staff reports included under Attachment "C", staff felt that Convenience Commercial (C-1) or Neighborhood Commercial (C-2) zones which are dispersed throughout the City and intended to serve residential neighborhoods, often including families with children, would not be an appropriate location for these uses. A map of C-3 Zone is attached (see Attachment "D").
- Section 9-5.3843(A) proposes additional locational criteria for Tobacco and Paraphernalia Retailers.
 - They must front an arterial street. This criterion is proposed because of the high number of calls for service related to burglaries, theft, alarm calls, and assault, relative to other types of retail businesses. By fronting on an arterial street, the business will be easily viewed by the general public and, most importantly, Police Department patrol vehicles. Limited police resources are such that patrol of internal parking lot fronting businesses will be difficult and could result in a detrimental impact on adjoining businesses and a less safe situation for the Tobacco and Paraphernalia Retailer itself.
 - A 500 foot buffer-zone is proposed to prevent an over-concentration of Tobacco and Paraphernalia Retailers or other establishments which typically generate high volumes of Police Department calls for services, such as liquor stores, computer gaming and internet access businesses and card rooms. A 500-foot buffer zone from sensitive uses, such as schools, parks, and recreational centers where youth congregate, is also proposed. This buffer distance is consistent with the existing liquor establishment and computer gaming and internet access business ordinances.
- Section 9-5.3843(B) requires that the businesses comply with other parts of the Municipal Code concerning smoking and tobacco and paraphernalia retailers regarding issues such as self-service displays and the Tobacco Free Youth Ordinance, among other items. This section serves primarily to alert the applicant and staff to these Code provisions.

The provisions above would be applicable to new Tobacco and Paraphernalia Retailers locating in Antioch or existing businesses that are changing location. However, as previously stated, existing State and local laws that govern operations still apply to existing businesses. Furthermore, if any of these uses began illegally after the moratorium, these uses would be subject to the land use restrictions.

ATTACHMENTS

- A. Proposed Zoning Ordinance
- B. Ordinance 2086-C-S adopted on April 22, 2014 extending an interim urgency zoning ordinance regarding Tobacco and Paraphernalia Retailers.
- C. Staff report for the April 22, 2014 City Council meeting which contains July 9, 2013 and May 28, 2013 staff reports as attachments.
- D. C-3 Zone location map

ATTACHMENT "A"

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH DEFINING AND ESTABLISHING ZONING REGULATIONS FOR TOBACCO AND PARAPHERNALIA RETAILERS

SECTION 1. Findings. The Antioch City Council hereby finds, determines and declares as follows:

A. The City of Antioch holds the right to make and enforce all laws and regulations not in conflict with general laws, and the City holds all rights and powers established by state law.

B. On April 22, 2014, the City Council adopted Ordinance No. 2086-C-S extending a moratorium on Tobacco and Paraphernalia Retailers pursuant to findings regarding a current and immediate threat to the public health, safety and welfare from the effects and impacts of Tobacco and Paraphernalia Retailers, including but not limited to incidents involving burglary and attempted burglary, armed robbery, fights and disturbances including those involving juveniles, petty theft, assault, threats, loitering, panhandling, harassment, stolen vehicles, and passing counterfeit bills. The findings in Ordinance No. 2086-C-S are incorporated into this ordinance.

C. The Planning Commission conducted a duly noticed public hearing on February 4, 2015 at which time a resolution was approved to initiate and recommend to the City Council that this ordinance be adopted. The City Council held a duly noticed public hearing on February 10, 2015 at which time all interested persons were allowed to address the Council regarding adoption of this ordinance.

D. The City Council finds that the public necessity requires the proposed zoning ordinance amendments to allow Tobacco and Paraphernalia Retailers only in the Commercial C-3 zoning district and to impose requirements regarding over-concentration and distance from sensitive uses to avoid the detrimental impacts from the use described above; said amendments are not detrimental to properties within Antioch, and that the proposed zoning ordinance amendment is in conformance with the Antioch General Plan.

SECTION 2. Section 9-5.203 of the Antioch Municipal Code is hereby amended to add the following definitions, alphabetically listed, with no other amendments to this Section:

ELECTRONIC SMOKING DEVICE "Electronic Smoking Device" means an electronic device which can be used to deliver an inhaled dose of nicotine, or other substances (vaping), including any component, part, or accessory of such a device, whether or not sold separately. "Electronic Smoking Device" includes any such electronic smoking device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor.

AI

TOBACCO PRODUCT "Tobacco Product" means:

- (a) any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff; and
- (b) Any electronic device that delivers nicotine or other substances to the person inhaling from the device, including, but not limited to an electronic cigarette, cigar, pipe, or hookah.
- (c) Notwithstanding any provision of subsections (a) and (b) to the contrary, "tobacco product" includes any component, part, or accessory of a tobacco product, whether or not sold separately. "Tobacco product" does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.

TOBACCO AND PARAPHERNALIA RETAILER shall mean any establishment that sells any Tobacco Products, Electronic Smoking Devices or Paraphernalia as defined in this ordinance. Retail businesses larger than 5,000 s.f. having less than 5% of their sales area devoted to tobacco products, electronic smoking devices, or paraphernalia are exempt from this definition.

PARAPHERNALIA shall have the definition set forth in California Health & Safety Code section 11014.5, as that section may be amended from time to time.

SECTION 3. Section 9-5.3803 Table of Land Use Regulations is hereby amended to add the following to require a Use Permit for Tobacco and Paraphernalia Retailers in the C-3 zone (Regional Commercial) and to not permit the use in other zoning districts, with no other amendments to this section:

	R	R-	R																
	E	4	-																
	R	R- 1	R- PB	C	C-	C-	C-	M	W	O	M-	M-	RT	RTR-	RTR-				
	R	6	0	20	C	-0	1	2	3	CR	F	S	1	2	H	C	10	20	
Tobacco & Paraphernalia Retailers (§9-5.3843)	--	--	--	--	--	--	--	U	--	--	--	--	--	--	--	--	--	--	--

AZ

SECTION 4. Section 9-5.3843 is hereby added as follows:

9-5.3843 TOBACCO AND PARAPHERNALIA RETAILER BUSINESSES

(A) In addition to requiring a Use Permit in the C-3 zone the following locational criteria shall apply:

- (1) The primary customer access point must be located on and fronting an arterial street as defined in the General Plan.
- (2) No Tobacco and Paraphernalia Retailer Business shall be operated within a radius of 500 feet from any other Tobacco and Paraphernalia Retailer Business; any school, public park, playground, recreational center, day care center, or other similar use; any computer gaming and internet access business; any on- or off-sale liquor establishment excluding those exempted in 9-5.3831(B); or any card room.

(B) Tobacco and Paraphernalia Retailer Business are also required to comply with Title 5, Chapter 16 and Title 6, Chapter 8 of the Municipal Code regulating paraphernalia display and smoking and manner of tobacco sales respectively. Requirements of these sections shall be a condition of the Use Permit.

SECTION 5. CEQA.

This Ordinance is subject to the CEQA exemption contained in CEQA Guideline section 15061 (b) (3) because it can be seen with certainty to have no possibility of a significant effect on the environment. The proposed ordinance restricts future use of existing developed parking lots.

SECTION 6. Publication; Effective Date.

This Ordinance shall take effect and be enforced thirty (30) days from and after the date of its adoption by the City Council at a second reading and shall be posted and published in accordance with the California Government Code.

SECTION 7. Severability.

Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

* * * * *

I HEREBY CERTIFY that the foregoing ordinance was introduced at a regular meeting of the City Council of the City of Antioch held on the ___ day of ___ and passed and introduced at a regular meeting thereof, held on the ___ day of _____, by the following vote:

AYES:

NOES:

ABSENT:

Wade Harper, Mayor of the City of Antioch

ATTEST:

Arne Simonsen, City Clerk of the City of Antioch

ATTACHMENT "B"

ORDINANCE NO. 2086-C-S

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH EXTENDING AN INTERIM URGENCY ZONING ORDINANCE PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65858 PROHIBITING THE ISSUANCE OF PERMITS, LICENSES OR APPROVALS FOR CONSTRUCTION, ESTABLISHMENT OR OPERATION OF TOBACCO AND PARAPHERNALIA RETAILER BUSINESSES WITHIN THE CITY ON AN INTERIM BASIS PENDING CONSIDERATION OF AMENDMENTS TO THE ANTIOCH MUNICIPAL CODE

The City Council of the City of Antioch does ordain as follows:

SECTION 1. Interim Urgency Zoning Ordinance. This ordinance is adopted pursuant to the authority of Section 65858 of the Government Code of the State of California, the Antioch City Municipal Code and applicable laws.

SECTION 2. Findings. The Antioch City Council hereby finds, determines and declares as follows:

A. The City of Antioch holds the right to make and enforce all laws and regulations not in conflict with general laws, and the City holds all rights and powers established by state law.

B. The City has received and anticipates additional requests for the construction, establishment and operation of Tobacco and Paraphernalia Retailer businesses (as defined herein) within the City. However, the provisions of the City Municipal Code that may regulate the construction, operation and establishment of Tobacco and Paraphernalia Retailer businesses in the City are inadequate and need review, study, and revision. The current provisions also fail to fully take into account the impacts related to the location and manner of construction, establishment and operation of Tobacco and Paraphernalia Retailer businesses, and the related public health, safety, and welfare concerns, including but not limited to the impacts they may have on parking, surrounding uses, and the community.

C. Tobacco and Paraphernalia Retailer businesses often have local school students and minors as their target market, and thereby may encourage the assembly of significant numbers of minors without supervision by parents or guardians, not to mention use of tobacco products or illegal substances. Seven of the twelve Tobacco and Paraphernalia Retailers listed below are located within several blocks of schools. Further, given concerns about attendance at the Antioch Unified School District such congregation of students should not be allowed during regular school hours.

D. The City Council of the City of Antioch is concerned with exposure of youth to tobacco products and prevalence of smoking among youth:

1. In California, 11.9% of the adult population¹ and 14.6% of teenagers² currently smoke.

¹ Cal. Dep't Health Servs, Tobacco Control Program, Smoking Prevalence Among California Adults (April 2011).

² Cal. Dep't Health Servs, Tobacco Control Sec., 30-Day Smoking Prevalence Among California Youth (September 2009).

2. Although it is unlawful to sell tobacco products and/or tobacco paraphernalia to minors,³ 5.6% of California retailers surveyed do sell to minors.⁴ These numbers are more concerning locally. According to the California Health Department's Food and Drug Branch, the sales rate to minors in Contra Costa County overall is 22%.⁵ In other words, stores in Contra Costa County on average sell tobacco to youth one in every four times they try to buy cigarettes.

E. The City Council of the City of Antioch is also concerned with the increased calls for service, increasing reports of violent criminal behavior and related detrimental neighborhood effects associated with Tobacco and Paraphernalia Retailers. The City of Antioch needs additional time to study this issue and determine if concentration and/or location of Tobacco and Paraphernalia Retailers in close proximity to other uses with generally high rates of calls for service such as bars or liquor stores would exasperate these concerns. The City of Antioch is also concerned about uses with high rates of calls for service in proximity to youth including schools and parks.

F. The City of Antioch, as well as neighboring cities, have experienced criminal activity associated with Tobacco and Paraphernalia Retailers, including incidents involving burglary and attempted burglary, armed robbery, fights and disturbances including those involving juveniles, petty theft, assault, threats, loitering, panhandling, harassment, stolen vehicles, and passing counterfeit bills. For example, the Antioch Police Department has documented a significant amount of calls for service involving a variety of crimes in these businesses and within the shopping centers in which Tobacco and Paraphernalia Retailers are located. Included below as findings are representational incidents associated with Tobacco and Paraphernalia Retailers for the 12 month period from May 9, 2012 – May 9, 2013 (not all businesses were in operation for the entire period) when this moratorium was initially adopted by the City Council on May 28, 2013. Under each address in *italics* is updated information on calls for service for the period of May 9, 2013 to present:

1. Cigarette 4 Less, 3142 Contra Loma Blvd: two (2) calls for service related to an alarm and an alleged fight between juveniles in the area.

Seven (7) calls for service related to alarms and suspicious subjects.

2. Cigarette 4 Less, 2549 San Jose Drive: eleven (11) calls for service related to alarms, petty thefts, a civil complaint and an assault.

Six (6) calls for service related to alarms, assault, theft, and requests for extra patrol.

3. Smoke Shop, 4532 Lone Tree Way: five (5) calls for service related to a robbery, petty thefts, unfounded 911 call and a fight inside the store.

Two (2) calls for service related to petty theft.

4. Smoke Shop DBA Cigarette 4 Less, 2767 Lone Tree Way: two (2) calls for service related to an armed robbery and false alarm.

³ Cal. Penal Code § 308

⁴ Cal. Dep't Health Servs, Tobacco Control Sec., Youth Tobacco Purchase Survey 1995-2011

⁵ California Department of Health Services Food and Drug Branch Compliance Checks, 2003.

Four (4) calls for service related to burglary, armed robbery, counterfeit bills, and an unattended child.

5. Cigarette 4 Less, 2727 Hillcrest Ave: five (5) calls for service related to alarms, a threat complaint, armed robbery and a suspicious circumstance.

Five (5) calls for service related to suspicious persons, counterfeit bills, alarms, and robbery.

6. Sycamore Smoke & More, 1096 Sycamore Drive: thirty-one (31) calls for service related to unwanted guests, loitering complaints, assaults, panhandling and fighting.

Seventeen (17) calls for service related to loitering, disturbances, gambling, drug dealing, suspicious subjects, and 911 hang up.

7. Cigarette 4 Less, 3708 Lone Tree Way: six (6) calls for service related to alarms, juvenile disturbance and a burglary of the business.

Two (2) call for service related to an alarm and assault.

8. Tower Zone Smoke Shop, 2717 Contra Loma Blvd.: five (5) calls for service related to an armed robbery, petty theft and 911 hang-up.

One (1) call for service related to an unwanted guest.

9. Lone Tree Cigarette & More Inc., 4839 Lone Tree Way Suite C: eight (8) calls for service related to alarms, armed robbery, petty theft, harassment and suspicious persons.

Seven (7) calls for service related to alarms, armed robbery, and disturbances.

10. Smoke Shop Mini Market, 1515 A Street: eleven (11) calls for service related to threats, loitering, juvenile disturbance, panhandling, stolen cars, an alarm, counterfeit bill and petty theft.

Five (5) calls for service related to alarms, disturbances, assault, theft, and robbery.

11. Discount Cigarette & Cigar Store, 1615 A Street: nine (9) calls for service related to an alarm, a fight in the parking lot in front of the business, medical call, burglary, unwanted guest, a suspicious person, a suspicious circumstance and a fraud (counterfeit) complaint.

Three (3) calls for service related to alarms, theft, and harassment.

12. Fusion Novelties, 1336 Sunset Drive: one (1) call for service related to a vandalism – broken window.

Zero. This business closed during the reporting period.

G. In addition to the increased calls for service and increasing reports of violent criminal behavior described above, the City Council is also concerned that Tobacco and Paraphernalia Retailers are not complying with applicable State and local laws related to tobacco and paraphernalia sales. Code Enforcement staff inspected the businesses listed above and found violations of California Health and Safety Code 11364.5 and Antioch Municipal Code Title 5, Chapter 16 related to paraphernalia sales; Municipal Code Section 9-5.519 related to tobacco advertising; Municipal Code 9-5.508 related to general advertising; and California Business and Professions Code 22962 and Municipal Code 6-8.13 related to self service display of tobacco.

H. Without the enactment of this Ordinance, multiple applicants could quickly receive entitlements, which would allow additional Tobacco and Paraphernalia Retailers that pose a threat to the public health, safety, and welfare. The City Council hereby determines that the Municipal Code is in need of updating to protect the public health, safety, and welfare from dangers caused by Tobacco and Paraphernalia Retailers. The City requires additional time to prepare, evaluate and adopt reasonable regulations regarding the construction, placement, concentration and operation of Tobacco and Paraphernalia Retailers so that such regulations are applied in a nondiscriminatory manner.

I. In order to prevent the frustration of these studies and the implementation of new regulations, the public interest, health, safety, and welfare require immediate enactment of this Ordinance. The absence of this Ordinance would impair the orderly and effective implementation of contemplated Municipal Code amendments, and any further authorization of these uses within the City during the period of the interim zoning regulations may be in conflict with or may frustrate the contemplated updates and revisions of the Municipal Code.

J. Based on the foregoing, the City finds that there is a current and immediate threat to the public health, safety, or welfare and that this Ordinance is necessary in order to protect the City from the potential effects and impacts of Tobacco and Paraphernalia Retailers in the City, potential increases in crime, impacts on parking availability in the business areas of the City, the aesthetic impacts to the City, and other similar or related effects on property values and the quality of life in the City's neighborhoods.

K. The City Council further finds that this interim zoning regulation is a matter of local and City-wide importance and is not directed towards any particular business that currently seeks to construct or operate a Tobacco and Paraphernalia Retailer business.

L. The City Council finds that this Ordinance is authorized by the City's police powers. The City Council further finds that the length of the interim zoning regulations imposed by this Ordinance will not in any way deprive any person of rights granted by state or federal laws, because the interim zoning regulation is short in duration and essential to protect the public health, safety and welfare.

SECTION 3. Interim Regulations. The following provisions are hereby adopted as interim zoning standards pertaining to the review or approval of any entitlements or the issuance of any permits or licenses pursuant to the Antioch Municipal Code for Tobacco and Paraphernalia Retailers. The approval of any entitlements or the issuance of any permit or license in the City in conflict with these provisions is expressly prohibited:

A. Restricted Activities. For a period of one additional year (12 months) following the enactment of this Ordinance, no person shall be issued a permit, license or land use

entitlement for the construction, placement, or operation of new Tobacco and Paraphernalia Retailer businesses within the City. The City Manager or his or her designee shall review any application for a permit, license or land use entitlement to determine applicability of the provisions of this Ordinance. City Staff, City boards and City commissions are directed to refrain from issuing any application for any permits, licenses or land use entitlement, including, but not limited to, use permits, variances, building permits, licenses and certificates of occupancy, necessary for construction, placement, or operation of a Tobacco and Paraphernalia Retailer business. These prohibitions shall remain in effect during the 12 months following enactment of this Ordinance. Tobacco and Paraphernalia Retailer businesses existing on May 28, 2013 when the first urgency ordinance prohibiting these uses was adopted by the City Council may continue to operate at their current locations provided that they are in compliance with State law and the Antioch Municipal Code.

B. Definitions. In addition to the definitions contained in the City's Municipal Code, the following words and phrases shall, for the purposes of this Ordinance, be defined as follows, unless it is clearly apparent from the context that another meaning is intended. Should any of the definitions be in conflict with the current provisions of the Municipal Code, the following definitions shall prevail:

1. **TOBACCO AND PARAPHERNALIA RETAILER** shall mean any establishment that sells any substance containing tobacco including but not limited to cigarettes, cigars, chewing tobacco and dipping tobacco, cigarette papers, or any other instruments or paraphernalia as defined in this ordinance. Retail businesses larger than 5,000 s.f. having less than 5% of their sales area devoted to tobacco or paraphernalia are exempt from this definition.
2. **PARAPHERNALIA** shall have the definition set forth in California Health & Safety Code section 11014.5, as that section may be amended from time to time.

SECTION 4. CEQA. This ordinance is not a project within the meaning of Section 15378 of the State CEQA (California Environmental Quality Act) Guidelines, because it has no potential for resulting in physical change in the environment, directly or ultimately. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guideline section 16061 (b) (3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

SECTION 5. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 6. Effective Date. This interim ordinance shall take effect immediately upon its adoption and shall continue in effect for 12 months from the date of its adoption by not less than a four-fifths vote of the Antioch City Council, unless superseded by a subsequent ordinance of the City Council.

SECTION 7. Report of Council. Ten days prior to the expiration of this Ordinance, or any extension thereof, this Council shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of this ordinance, or any extension thereof.

SECTION 8. Declaration of Urgency. This ordinance is hereby declared to be an urgency measure necessary for the immediate protection of the public health, safety and welfare. This Council hereby finds that there is a current and immediate threat to the public health, safety and welfare. The reasons for this urgency are declared and set forth in Section 2 of this Ordinance and are incorporated herein by reference.

SECTION 9. Publication; Certification. The City Clerk shall certify to the adoption of this Ordinance and cause same to be published in accordance with State law.

* * * * *

I HEREBY CERTIFY that the foregoing Ordinance was introduced and adopted as an urgency ordinance pursuant to the terms of California Government Code Section 65858 at a regular meeting of the City Council of the City of Antioch on the 22nd day of April, 2014, by the following vote:

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

NOES: None.

ABSENT: None.

ABSTAIN: None.

/s/ Wade Harper
Wade Harper, Mayor of the City of Antioch

ATTEST:

/s/ Arne Simonsen
Arne Simonsen, City Clerk of the City of Antioch

ATTACHMENT "C"

STAFF REPORT TO THE CITY COUNCIL FOR CONSIDERATION AT THE MEETING OF APRIL 22, 2014

Prepared by: Tina Wehrmeister, Community Development Director *tw*

Date: April 17, 2014

Subject: Adoption of an Urgency Ordinance Extending a Temporary Moratorium on the Establishment and Operation of Tobacco and Paraphernalia Retailers

RECOMMENDATION

It is recommended that the City Council adopt the attached urgency ordinance extending a temporary moratorium on the issuance of permits, licenses, or approvals for construction, establishment or operation of Tobacco and Paraphernalia Retailer businesses within the City of Antioch on an interim basis pending consideration of amendments to the Antioch Municipal Code for a period of one year and declaring the urgency to do so (four-fifths vote).

BACKGROUND / DISCUSSION

On May 28, 2013, the City Council adopted an urgency ordinance establishing a temporary moratorium on the issuance of permits, licenses, or approvals for construction, establishment or operation of Tobacco and Paraphernalia Retailer businesses. The staff report for that City Council meeting provides more details regarding the issue and the urgent need for a temporary moratorium to address public safety, health and welfare issues raised by these Tobacco and Paraphernalia Retailer businesses (as defined in the ordinance). The moratorium was extended by the City Council for a period of 10 months, 15 days on July 9, 2013. The July 9, 2013 staff report is included as Attachment "A" and contains the May 28, 2013 report.

Pursuant to Government Code Section 65858 the initial moratorium is effective for 45 days and can be extended for up to a total of 2 years, provided that the current and immediate threat to the public safety, health and welfare still exists, and the City follows the public notice and hearing procedures for extension of the moratorium.

Due to staffing levels, the complexity of the issues to be studied and the ongoing public safety, health and welfare issues raised by Tobacco and Paraphernalia Retailer businesses, it is recommended that the moratorium be extended for an additional year. Proper noticing procedures were followed in advance of this item being placed on the agenda. Further extensions are not permitted under the Government Code; therefore, staff will draft a regular ordinance for consideration within the next twelve months.

Staff has been in contact with ChangeLab Solutions (formerly TALC – Tobacco Assistance Legal Center) and staff from the Contra Costa Tobacco Prevention Coalition to discuss the City's options regarding land use as well as licensing ordinances. As mentioned, these issues are complex and additional time is needed to prepare and present an ordinance(s) for consideration.

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FISCAL IMPACT

There is no direct fiscal impact with the adoption of the proposed urgency ordinance. There will be staff time expended to prepare ordinances addressing Tobacco and Paraphernalia Retailers and to review and make recommendations regarding regulations for existing businesses.

There may be a negative sales tax and property tax impact because no new tobacco retailers can operate; however, the City Council previously found that the negative impacts from such businesses outweighed any potential loss revenue to the City.

OPTIONS

The Council may choose not to adopt the urgency ordinance extending the moratorium. This will leave the City without a zoning ordinance specifically addressing Tobacco and Paraphernalia Retailer businesses.

ATTACHMENTS

A: July 9, 2013 staff report (contains the May 28, 2013 staff report)

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH EXTENDING AN INTERIM URGENCY ZONING ORDINANCE PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65858 PROHIBITING THE ISSUANCE OF PERMITS, LICENSES OR APPROVALS FOR CONSTRUCTION, ESTABLISHMENT OR OPERATION OF TOBACCO AND PARAPHERNALIA RETAILER BUSINESSES WITHIN THE CITY ON AN INTERIM BASIS PENDING CONSIDERATION OF AMENDMENTS TO THE ANTIOCH MUNICIPAL CODE

The City Council of the City of Antioch does ordain as follows:

SECTION 1. Interim Urgency Zoning Ordinance. This ordinance is adopted pursuant to the authority of Section 65858 of the Government Code of the State of California, the Antioch City Municipal Code and applicable laws.

SECTION 2. Findings. The Antioch City Council hereby finds, determines and declares as follows:

A. The City of Antioch holds the right to make and enforce all laws and regulations not in conflict with general laws, and the City holds all rights and powers established by state law.

B. The City has received and anticipates additional requests for the construction, establishment and operation of Tobacco and Paraphernalia Retailer businesses (as defined herein) within the City. However, the provisions of the City Municipal Code that may regulate the construction, operation and establishment of Tobacco and Paraphernalia Retailer businesses in the City are inadequate and need review, study, and revision. The current provisions also fail to fully take into account the impacts related to the location and manner of construction, establishment and operation of Tobacco and Paraphernalia Retailer businesses, and the related public health, safety, and welfare concerns, including but not limited to the impacts they may have on parking, surrounding uses, and the community.

C. Tobacco and Paraphernalia Retailer businesses often have local school students and minors as their target market, and thereby may encourage the assembly of significant numbers of minors without supervision by parents or guardians, not to mention use of tobacco products or illegal substances. Seven of the twelve Tobacco and Paraphernalia Retailers listed below are located within several blocks of schools. Further, given concerns about attendance at the Antioch Unified School District such congregation of students should not be allowed during regular school hours.

D. The City Council of the City of Antioch is concerned with exposure of youth to tobacco products and prevalence of smoking among youth:

1. In California, 11.9% of the adult population¹ and 14.6% of teenagers² currently smoke.

¹ Cal. Dep't Health Servs, Tobacco Control Program, Smoking Prevalence Among California Adults (April 2011).

² Cal. Dep't Health Servs, Tobacco Control Sec., 30-Day Smoking Prevalence Among California Youth (September 2009).

2. Although it is unlawful to sell tobacco products and/or tobacco paraphernalia to minors,³ 5.6% of California retailers surveyed do sell to minors.⁴ These numbers are more concerning locally. According to the California Health Department's Food and Drug Branch, the sales rate to minors in Contra Costa County overall is 22%.⁵ In other words, stores in Contra Costa County on average sell tobacco to youth one in every four times they try to buy cigarettes.

E. The City Council of the City of Antioch is also concerned with the increased calls for service, increasing reports of violent criminal behavior and related detrimental neighborhood effects associated with Tobacco and Paraphernalia Retailers. The City of Antioch needs additional time to study this issue and determine if concentration and/or location of Tobacco and Paraphernalia Retailers in close proximity to other uses with generally high rates of calls for service such as bars or liquor stores would exasperate these concerns. The City of Antioch is also concerned about uses with high rates of calls for service in proximity to youth including schools and parks.

F. The City of Antioch, as well as neighboring cities, have experienced criminal activity associated with Tobacco and Paraphernalia Retailers, including incidents involving burglary and attempted burglary, armed robbery, fights and disturbances including those involving juveniles, petty theft, assault, threats, loitering, panhandling, harassment, stolen vehicles, and passing counterfeit bills. For example, the Antioch Police Department has documented a significant amount of calls for service involving a variety of crimes in these businesses and within the shopping centers in which Tobacco and Paraphernalia Retailers are located. Included below as findings are representational incidents associated with Tobacco and Paraphernalia Retailers for the 12 month period from May 9, 2012 – May 9, 2013 (not all businesses were in operation for the entire period) when this moratorium was initially adopted. Under each address in *italics* is updated information on calls for service for the period of May 9, 2013 to present:

1. Cigarette 4 Less, 3142 Contra Loma Blvd: two (2) calls for service related to an alarm and an alleged fight between juveniles in the area.
Seven (7) calls for service related to alarms and suspicious subjects.
2. Cigarette 4 Less, 2549 San Jose Drive: eleven (11) calls for service related to alarms, petty thefts, a civil complaint and an assault.
Six (6) calls for service related to alarms, assault, theft, and requests for extra patrol.
3. Smoke Shop, 4532 Lone Tree Way: five (5) calls for service related to a robbery, petty thefts, unfounded 911 call and a fight inside the store.
Two (2) calls for service related to petty theft.
4. Smoke Shop DBA Cigarette 4 Less, 2767 Lone Tree Way: two (2) calls for service related to an armed robbery and false alarm.

³ Cal. Penal Code § 308

⁴ Cal. Dep't Health Servs, Tobacco Control Sec., Youth Tobacco Purchase Survey 1995-2011

⁵ California Department of Health Services Food and Drug Branch Compliance Checks, 2003.

Four (4) calls for service related to burglary, armed robbery, counterfeit bills, and an unattended child.

5. Cigarette 4 Less, 2727 Hillcrest Ave: five (5) calls for service related to alarms, a threat complaint, armed robbery and a suspicious circumstance.

Five (5) calls for service related to suspicious persons, counterfeit bills, alarms, and robbery.

6. Sycamore Smoke & More, 1096 Sycamore Drive: thirty-one (31) calls for service related to unwanted guests, loitering complaints, assaults, panhandling and fighting.

Seventeen (17) calls for service related to loitering, disturbances, gambling, drug dealing, suspicious subjects, and 911 hang up.

7. Cigarette 4 Less, 3708 Lone Tree Way: six (6) calls for service related to alarms, juvenile disturbance and a burglary of the business.

Two (2) call for service related to an alarm and assault.

8. Tower Zone Smoke Shop, 2717 Contra Loma Blvd.: five (5) calls for service related to an armed robbery, petty theft and 911 hang-up.

One (1) call for service related to an unwanted guest.

9. Lone Tree Cigarette & More Inc., 4839 Lone Tree Way Suite C: eight (8) calls for service related to alarms, armed robbery, petty theft, harassment and suspicious persons.

Seven (7) calls for service related to alarms, armed robbery, and disturbances.

10. Smoke Shop Mini Market, 1515 A Street: eleven (11) calls for service related to threats, loitering, juvenile disturbance, panhandling, stolen cars, an alarm, counterfeit bill and petty theft.

Five (5) calls for service related to alarms, disturbances, assault, theft, and robbery.

11. Discount Cigarette & Cigar Store, 1615 A Street: nine (9) calls for service related to an alarm, a fight in the parking lot in front of the business, medical call, burglary, unwanted guest, a suspicious person, a suspicious circumstance and a fraud (counterfeit) complaint.

Three (3) calls for service related to alarms, theft, and harassment.

12. Fusion Novelties, 1336 Sunset Drive: one (1) call for service related to a vandalism – broken window.

Zero. This business closed during the reporting period.

G. In addition to the increased calls for service and increasing reports of violent criminal behavior described above, the City Council is also concerned that Tobacco and Paraphernalia Retailers are not complying with applicable State and local laws related to tobacco and paraphernalia sales. Code Enforcement staff inspected the businesses listed below and found violations of California Health and Safety Code 11364.5 and Antioch Municipal Code Title 5, Chapter 16 related to paraphernalia sales; Municipal Code Section 9-5.519 related to tobacco advertising; Municipal Code 9-5.508 related to general advertising; and California Business and Professions Code 22962 and Municipal Code 6-8.13 related to self service display of tobacco.

H. Without the enactment of this Ordinance, multiple applicants could quickly receive entitlements, which would allow additional Tobacco and Paraphernalia Retailers that pose a threat to the public health, safety, and welfare. The City Council hereby determines that the Municipal Code is in need of updating to protect the public health, safety, and welfare from dangers caused by Tobacco and Paraphernalia Retailers. The City requires additional time to prepare, evaluate and adopt reasonable regulations regarding the construction, placement, concentration and operation of Tobacco and Paraphernalia Retailers so that such regulations are applied in a nondiscriminatory manner.

I. In order to prevent the frustration of these studies and the implementation of new regulations, the public interest, health, safety, and welfare require immediate enactment of this Ordinance. The absence of this Ordinance would impair the orderly and effective implementation of contemplated Municipal Code amendments, and any further authorization of these uses within the City during the period of the interim zoning regulations may be in conflict with or may frustrate the contemplated updates and revisions of the Municipal Code.

J. Based on the foregoing, the City finds that there is a current and immediate threat to the public health, safety, or welfare and that this Ordinance is necessary in order to protect the City from the potential effects and impacts of Tobacco and Paraphernalia Retailers in the City, potential increases in crime, impacts on parking availability in the business areas of the City, the aesthetic impacts to the City, and other similar or related effects on property values and the quality of life in the City's neighborhoods.

K. The City Council further finds that this interim zoning regulation is a matter of local and City-wide importance and is not directed towards any particular business that currently seeks to construct or operate a Tobacco and Paraphernalia Retailer business.

L. The City Council finds that this Ordinance is authorized by the City's police powers. The City Council further finds that the length of the interim zoning regulations imposed by this Ordinance will not in any way deprive any person of rights granted by state or federal laws, because the interim zoning regulation is short in duration and essential to protect the public health, safety and welfare.

SECTION 3. Interim Regulations. The following provisions are hereby adopted as interim zoning standards pertaining to the review or approval of any entitlements or the issuance of any permits or licenses pursuant to the Antioch Municipal Code for Tobacco and Paraphernalia Retailers. The approval of any entitlements or the issuance of any permit or license in the City in conflict with these provisions is expressly prohibited:

A. Restricted Activities. For a period of one year (12 months) following the enactment of this Ordinance, no person shall be issued a permit, license or land use entitlement

for the construction, placement, or operation of new Tobacco and Paraphernalia Retailer businesses within the City. The City Manager or his or her designee shall review any application for a permit, license or land use entitlement to determine applicability of the provisions of this Ordinance. City Staff, City boards and City commissions are directed to refrain from issuing any application for any permits, licenses or land use entitlement, including, but not limited to, use permits, variances, building permits, licenses and certificates of occupancy, necessary for construction, placement, or operation of a Tobacco and Paraphernalia Retailer business. These prohibitions shall remain in effect during the 12 months following enactment of this Ordinance. Existing Tobacco and Paraphernalia Retailer businesses may continue to operate at their current locations provided that they are in compliance with State law and the Antioch Municipal Code.

B. Definitions. In addition to the definitions contained in the City's Municipal Code, the following words and phrases shall, for the purposes of this Ordinance, be defined as follows, unless it is clearly apparent from the context that another meaning is intended. Should any of the definitions be in conflict with the current provisions of the Municipal Code, the following definitions shall prevail:

1. **TOBACCO AND PARAPHERNALIA RETAILER** shall mean any establishment that sells any substance containing tobacco including but not limited to cigarettes, cigars, chewing tobacco and dipping tobacco, cigarette papers, or any other instruments or paraphernalia as defined in this ordinance. Retail businesses larger than 5,000 s.f. having less than 5% of their sales area devoted to tobacco or paraphernalia are exempt from this definition.
2. **PARAPHERNALIA** shall have the definition set forth in California Health & Safety Code section 11014.5, as that section may be amended from time to time.

SECTION 4. CEQA. This ordinance is not a project within the meaning of Section 15378 of the State CEQA (California Environmental Quality Act) Guidelines, because it has no potential for resulting in physical change in the environment, directly or ultimately. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guideline section 16061 (b) (3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

SECTION 5. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 6. Effective Date. This interim ordinance shall take effect immediately upon its adoption and shall continue in effect for 12 months from the date of its adoption by not less than a four-fifths vote of the Antioch City Council, unless superseded by a subsequent ordinance of the City Council.

SECTION 7. Report of Council. Ten days prior to the expiration of this Ordinance, or any extension thereof, this Council shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of this ordinance, or any extension thereof.

SECTION 8. Declaration of Urgency. This ordinance is hereby declared to be an urgency measure necessary for the immediate protection of the public health, safety and welfare. This Council hereby finds that there is a current and immediate threat to the public health, safety and welfare. The reasons for this urgency are declared and set forth in Section 2 of this Ordinance and are incorporated herein by reference.

SECTION 9. Publication; Certification. The City Clerk shall certify to the adoption of this Ordinance and cause same to be published in accordance with State law.

* * * * *

I **HEREBY CERTIFY** that the foregoing Ordinance was introduced and adopted as an urgency ordinance pursuant to the terms of California Government Code Section 65858 at a regular meeting of the City Council of the City of Antioch on the 22nd day of April, 2014, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Wade Harper, Mayor of the City of Antioch

ATTEST:

Arne Simonsen, City Clerk of the City of Antioch

CS

ATTACHMENT "A"

STAFF REPORT TO THE CITY COUNCIL FOR CONSIDERATION AT THE MEETING OF JULY 9, 2013

Prepared by: Tina Wehrmeister, Community Development Director *AW*

Date: June 27, 2013

Subject: Adoption of an Urgency Ordinance Extending a Temporary Moratorium on the Establishment and Operation of Tobacco and Paraphernalia Retailers and including the prohibition on Computer Gaming at Tobacco and Paraphernalia Retailers

RECOMMENDATION

It is recommended that the City Council adopt the attached urgency ordinance extending a temporary moratorium on the issuance of permits, licenses, or approvals for construction, establishment or operation of Tobacco and Paraphernalia Retailer businesses within the City of Antioch and including the prohibition on Computer Gaming and Internet Access Businesses at Tobacco and Paraphernalia Retailers on an interim basis pending consideration of amendments to the Antioch Municipal Code for a period of 10 months and 15 days and declaring the urgency to do so (four-fifths vote).

Existing businesses will not be impacted by the recommended urgency ordinance extension as long as they do not engage in Computer Gaming and Internet Access Businesses at the same location.

BACKGROUND / DISCUSSION

On May 28, 2013, the City Council adopted an urgency ordinance establishing a temporary moratorium on the issuance of permits, licenses, or approvals for construction, establishment or operation of Tobacco and Paraphernalia Retailer businesses. The staff report for that City Council meeting is included as Attachment "A" and provides more details regarding the issue and the urgent need for a temporary moratorium to address public safety, health and welfare issues raised by these Tobacco and Paraphernalia Retailer businesses (as defined in the ordinance).

Pursuant to Government Code Section 65858 the initial moratorium is effective for 45 days and can be extended for up to a total of 2 years, provided that the current and immediate threat to the public safety, health and welfare still exists, and the City follows the public notice and hearing procedures for extension of the moratorium.

Due to staffing levels, the complexity of the issues to be studied and the ongoing public safety, health and welfare issues raised by Tobacco and Paraphernalia Retailer businesses, it is recommended that the moratorium be extended for 10 months and 15 days. Any further extension would require an additional noticed public hearing. Proper noticing procedures were followed in advance of this item being placed on the agenda.

7-9-13

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Staff has been in contact with ChangeLab Solutions (formerly TALC – Tobacco Assistance Legal Center) and staff from the Contra Costa Tobacco Prevention Coalition to discuss the City's options regarding land use as well as licensing ordinances. As mentioned, these issues are complex and additional time is needed to prepare and present an ordinance(s) for consideration.

In addition, it has come to staff's attention that Computer Gaming and Internet Access Businesses are approaching Tobacco and Paraphernalia Retailers to operate computer gaming businesses with less than 4 computers apparently to avoid the application of the moratorium on such uses with more than 4 computers. The staff report to the City Council on February 28, 2012 regarding Computer Gaming and Internet Access Businesses is attached by way of background, as well as Ordinance No. 2056-C-S dated April 10, 2012 that adopted a moratorium on new Computer Gaming and Internet Access Business with more than 4 computers.

As indicated in the staff report and Ordinance, there is a moratorium on computer gaming and internet access businesses with more than 4 computers because the provisions of the Municipal Code regarding these businesses are inadequate and need review, study, and revision. The current provisions also fail to fully take into account the impacts related to the location and manner of construction, establishment and operation of computer gaming and internet access businesses, and the related public health, safety, and welfare concerns, including but not limited to the impacts they may have on parking, surrounding uses, and the community. Given the high number of calls for service and nature of such calls at computer gaming and internet access businesses, combined with the number and nature of calls for service at Tobacco and Paraphernalia Retailers and current lack of compliance with federal, state and local laws at many of these Tobacco and Paraphernalia Retailers as discussed in the City Council staff report on May 28, 2013, it is recommended that these businesses be prohibited from combining until further review can be undertaken even if there are four or less computers involved.

FISCAL IMPACT

There is no direct fiscal impact with the adoption of the proposed urgency ordinance. There will be staff time expended to prepare ordinances addressing Tobacco and Paraphernalia Retailers and to review and make recommendations regarding regulations for existing businesses.

OPTIONS

The Council may choose not to adopt the urgency ordinance extending the moratorium. This will leave the City without a zoning ordinance specifically addressing Tobacco and Paraphernalia Retailer businesses.

ATTACHMENTS

- A. May 28, 2013 staff report
- B. February 28, 2012 staff report regarding Computer Gaming and Internet Access Businesses
- C. Ordinance No. 2056-C-S dated April 10, 2012

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH EXTENDING AN INTERIM URGENCY ZONING ORDINANCE PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65858 PROHIBITING THE ISSUANCE OF PERMITS, LICENSES OR APPROVALS FOR CONSTRUCTION, ESTABLISHMENT OR OPERATION OF TOBACCO AND PARAPHERNALIA RETAILER BUSINESSES WITHIN THE CITY ON AN INTERIM BASIS PENDING CONSIDERATION OF AMENDMENTS TO THE ANTIOCH MUNICIPAL CODE

The City Council of the City of Antioch does ordain as follows:

SECTION 1. Interim Urgency Zoning Ordinance. This ordinance is adopted pursuant to the authority of Section 65858 of the Government Code of the State of California, the Antioch City Municipal Code and applicable laws.

SECTION 2. Findings. The Antioch City Council hereby finds, determines and declares as follows:

A. The City of Antioch holds the right to make and enforce all laws and regulations not in conflict with general laws, and the City holds all rights and powers established by state law.

B. The City has received and anticipates additional requests for the construction, establishment and operation of Tobacco and Paraphernalia Retailer businesses (as defined herein) within the City. However, the provisions of the City Municipal Code that may regulate the construction, operation and establishment of Tobacco and Paraphernalia Retailer businesses in the City are inadequate and need review, study, and revision. The current provisions also fail to fully take into account the impacts related to the location and manner of construction, establishment and operation of Tobacco and Paraphernalia Retailer businesses, and the related public health, safety, and welfare concerns, including but not limited to the impacts they may have on parking, surrounding uses, and the community.

C. Tobacco and Paraphernalia Retailer businesses often have local school students and minors as their target market, and thereby may encourage the assembly of significant numbers of minors without supervision by parents or guardians, not to mention use of tobacco products or illegal substances. Seven of the twelve Tobacco and Paraphernalia Retailers listed below are located within several blocks of schools. Further, given concerns about attendance at the Antioch Unified School District such congregation of students should not be allowed during regular school hours.

D. The City Council of the City of Antioch is concerned with exposure of youth to tobacco products and prevalence of smoking among youth:

1. In California, 11.9% of the adult population¹ and 14.6% of teenagers² currently smoke.
2. Although it is unlawful to sell tobacco products and/or tobacco paraphernalia to minors,³ 5.6% of California retailers surveyed do sell to minors.⁴ These numbers

¹ Cal. Dep't Health Servs, Tobacco Control Program, Smoking Prevalence Among California Adults (April 2011).

² Cal. Dep't Health Servs, Tobacco Control Sec., 30-Day Smoking Prevalence Among California Youth (September 2009).

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are more concerning locally. According to the California Health Department's Food and Drug Branch, the sales rate to minors in Contra Costa County overall is 22%⁵. In other words, stores in Contra Costa County on average sell tobacco to youth one in every four times they try to buy cigarettes.

E. The City Council of the City of Antioch is also concerned with the increased calls for service, increasing reports of violent criminal behavior and related detrimental neighborhood effects associated with Tobacco and Paraphernalia Retailers. The City of Antioch needs additional time to study this issue and determine if concentration and/or location of Tobacco and Paraphernalia Retailers in close proximity to other uses with generally high rates of calls for service such as bars or liquor stores would exasperate these concerns. The City of Antioch is also concerned about uses with high rates of calls for service in proximity to youth including schools and parks.

F. The City of Antioch, as well as neighboring cities, have experienced criminal activity associated with Tobacco and Paraphernalia Retailers, including incidents involving burglary and attempted burglary, armed robbery, fights and disturbances including those involving juveniles, petty theft, assault, threats, loitering, panhandling, harassment, stolen vehicles, and passing counterfeit bills. For example, the Antioch Police Department has documented a significant amount of calls for service involving a variety of crimes in these businesses and within the shopping centers in which Tobacco and Paraphernalia Retailers are located. Included below as findings are representational incidents associated with Tobacco and Paraphernalia Retailers for the 12 month period from May 9, 2012 – May 9, 2013 (not all businesses were in operation for the entire period):

1. Cigarette 4 Less, 3142 Contra Loma Blvd: two (2) calls for service related to an alarm and an alleged fight between juveniles in the area.
2. Cigarette 4 Less, 2549 San Jose Drive: eleven (11) calls for service related to alarms, petty thefts, a civil complaint and an assault.
3. Smoke Shop, 4532 Lone Tree Way: five (5) calls for service related to a robbery, petty thefts, unfounded 911 call and a fight inside the store.
4. Smoke Shop DBA Cigarette 4 Less, 2767 Lone Tree Way: two (2) calls for service related to an armed robbery and false alarm.
5. Cigarette 4 Less, 2727 Hillcrest Ave: five (5) calls for service related to alarms, a threat complaint, armed robbery and a suspicious circumstance.
6. Sycamore Smoke & More, 1096 Sycamore Drive: thirty-one (31) calls for service related to unwanted guests, loitering complaints, assaults, panhandling and fighting.
7. Cigarette 4 Less, 3708 Lone Tree Way: six (6) calls for service related to alarms, juvenile disturbance and a burglary of the business.

³ Cal. Penal Code § 308

⁴ Cal. Dep't Health Servs, Tobacco Control Sec., Youth Tobacco Purchase Survey 1995-2011

⁵ California Department of Health Services Food and Drug Branch Compliance Checks, 2003.

8. Tower Zone Smoke Shop, 2717 Contra Loma Blvd.: five (5) calls for service related to an armed robbery, petty theft and 911 hang-up.
9. Lone Tree Cigarette & More Inc., 4839 Lone Tree Way Suite C: eight (8) calls for service related to alarms, armed robbery, petty theft, harassment and suspicious persons.
10. Smoke Shop Mini Market, 1515 A Street: eleven (11) calls for service related to threats, loitering, juvenile disturbance, panhandling, stolen cars, an alarm, counterfeit bill and petty theft.
11. Discount Cigarette & Cigar Store, 1615 A Street: nine (9) calls for service related to an alarm, a fight in the parking lot in front of the business, medical call, burglary, unwanted guest, a suspicious person, a suspicious circumstance and a fraud (counterfeit) complaint.
12. Fusion Novelties, 1336 Sunset Drive: one (1) call for service related to a vandalism – broken window.

G. In addition to the increased calls for service and increasing reports of violent criminal behavior described above, the City Council is also concerned that Tobacco and Paraphernalia Retailers are not complying with applicable State and local laws related to tobacco and paraphernalia sales. Code Enforcement staff has inspected the businesses listed below and found violations of California Health and Safety Code 11364.5 and Antioch Municipal Code Title 5, Chapter 16 related to paraphernalia sales; Municipal Code Section 9-5.519 related to tobacco advertising; Municipal Code 9-5.508 related to general advertising; and California Business and Professions Code 22962 and Municipal Code 6-8.13 related to self service display of tobacco:

1. Buchanan Smoke Shop, 2329A Buchanan Road: notice of violation for illegal display of paraphernalia. This location opened in April 2013 and is therefore not listed above as they did not have calls for service during the 12 month period.
2. Lone Tree Cigarette & More Inc., 4839 Lone Tree Way Suite C: notice of violation for illegal display of paraphernalia and tobacco related signs.
3. Cigarette 4 Less, 3142 Contra Loma Blvd: notice of violation for illegal display of paraphernalia, general signage, and self service tobacco.
4. Smoke Shop DBA Cigarette 4 Less, 2767 Lone Tree Way: notice of violation for illegal display of paraphernalia, and self service tobacco.
5. Cigarette 4 Less, 2727 Hillcrest Ave: notice of violation for illegal display of paraphernalia.
6. Cigarette 4 Less, 3708 Lone Tree Way: notice of violation for illegal display of paraphernalia, and self service tobacco.
7. Tower Zone Smoke Shop, 2717 Contra Loma Blvd.: notice of violation for illegal display of paraphernalia.

8. Smoke Shop Mini Market, 1515 A Street: notice of violation for illegal display of paraphernalia.
9. Discount Cigarette & Cigar Store, 1615 A Street: notice of violation for illegal display of paraphernalia.
10. Fusion Novelties, 1336 Sunset Drive: notice of violation for illegal display of paraphernalia.

H. Without the enactment of this Ordinance, multiple applicants could quickly receive entitlements which would allow additional Tobacco and Paraphernalia Retailers that pose a threat to the public health, safety, and welfare. The City Council hereby determines that the Municipal Code is in need of updating to protect the public health, safety, and welfare from dangers caused by Tobacco and Paraphernalia Retailers. The City requires additional time to prepare, evaluate and adopt reasonable regulations regarding the construction, placement, concentration and operation of Tobacco and Paraphernalia Retailers so that such regulations are applied in a nondiscriminatory manner.

I. In addition, Computer Gaming and Internet Access Businesses have created additional issues that need to be reviewed before allowing such uses, even with less than 4 computers, to be located with Tobacco and Paraphernalia Retailers, as summarized below and discussed further in the staff report to the City Council on February 28, 2012 and Ordinance No. 2056-C-S, which are incorporated into these findings:

1. Computer Gaming and Internet Access Businesses often have local school students and minors as their target market, and thereby may encourage the assembly of significant numbers of minors without supervision by parents or guardians. Further, given concerns about attendance at the Antioch Unified School District such congregation of students should not be allowed during regular school hours.
2. While the City's codes do regulate mechanical or electronic games, the computer stations at Computer Gaming and Internet Access Businesses are used in a manner that may be considered different from coin-operated video game machines, and therefore have different impacts. There is generally a charge for use of the computer station, and many users may occupy a particular station for multiple consecutive hours, creating unknown impacts on the surrounding area and businesses, such as observed lines of individuals waiting to access these businesses. Some Computer Gaming and Internet Access Businesses may stage late-night gaming sessions, which may encourage violation of the City's curfew ordinance or create and promote other late-night noise and related impacts on the surrounding community. Recently there have been Computer Gaming and Internet Access Businesses that promote "sweepstakes gaming" which encourages game playing that may provide chances to be awarded prizes. The extended use of such facilities by multiple persons waiting for a limited number of computer stations could contribute to increased detrimental effects on the commercial area where located and the surrounding residential area.
3. The City Council of the City of Antioch is also concerned with the increased calls for service, increasing reports of violent criminal behavior and related detrimental

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neighborhood effects associated with Computer Gaming and Internet Access Businesses.

4. The City of Antioch, as well as neighboring cities, has experienced criminal activity associated with Computer Gaming and Internet Access Businesses, including incidents involving robbery, illegal drug use and sales, burglary, assaults, public intoxication, vandalism and property damage and loitering. It is also known that other cities have experienced significant gang-related activities and prostitution occurring at these Computer Gaming and Internet Access Businesses. For example, the Antioch Police Department has documented a significant increase in service related calls involving a variety of crimes in these businesses and within the neighborhoods adjacent to Computer Gaming and Internet Access Businesses.

J. In order to prevent the frustration of these studies and the implementation of new regulations, the public interest, health, safety, and welfare require immediate enactment of this Ordinance. The absence of this Ordinance would impair the orderly and effective implementation of contemplated Municipal Code amendments, and any further authorization of these uses within the City during the period of the interim zoning regulations may be in conflict with or may frustrate the contemplated updates and revisions of the Municipal Code.

K. Based on the foregoing, the City finds that there is a current and immediate threat to the public health, safety, or welfare and that this Ordinance is necessary in order to protect the City from the potential effects and impacts of Tobacco and Paraphernalia Retailers in the City, potential increases in crime, impacts on parking availability in the business areas of the City, the aesthetic impacts to the City, and other similar or related effects on property values and the quality of life in the City's neighborhoods.

L. The City Council further finds that this interim zoning regulation is a matter of local and City-wide importance and is not directed towards any particular business that currently seeks to construct or operate a Tobacco and Paraphernalia Retailer business.

M. The City Council finds that this Ordinance is authorized by the City's police powers. The City Council further finds that the length of the interim zoning regulations imposed by this Ordinance will not in any way deprive any person of rights granted by state or federal laws, because the interim zoning regulation is short in duration and essential to protect the public health, safety and welfare.

SECTION 3. Interim Regulations. The following provisions are hereby adopted as interim zoning standards pertaining to the review or approval of any entitlements or the issuance of any permits or licenses pursuant to the Antioch Municipal Code for Tobacco and Paraphernalia Retailers. The approval of any entitlements or the issuance of any permit or license in the City in conflict with these provisions is expressly prohibited:

A. Restricted Activities. For a period of 10 month and 15 days following the enactment of this Ordinance, no person shall be issued a permit, license or land use entitlement for the construction, placement, or operation of new Tobacco and Paraphernalia Retailer businesses within the City or an existing Tobacco and Paraphernalia Retailer business that includes a Computer Gaming and Internet Access Business. The City Manager or his or her designee shall review any application for a permit, license or land use entitlement to determine applicability of the provisions of this Ordinance. City Staff, City boards and City commissions

are directed to refrain from issuing any application for any permits, licenses or land use entitlement, including, but not limited to, use permits, variances, building permits, licenses and certificates of occupancy, necessary for construction, placement, or operation of a Tobacco and Paraphernalia Retailer business. These prohibitions shall remain in effect during the 10 months and 15 days following enactment of this Ordinance. Existing Tobacco and Paraphernalia Retailer businesses may continue to operate at their current locations provided that they are in compliance with State law and the Antioch Municipal Code and do not operate a "Computer Gaming and Internet Access Business" at the same location.

B. Definitions. In addition to the definitions contained in the City's Municipal Code, the following words and phrases shall, for the purposes of this Ordinance, be defined as follows, unless it is clearly apparent from the context that another meaning is intended. Should any of the definitions be in conflict with the current provisions of the Municipal Code, the following definitions shall prevail:

1. **TOBACCO AND PARAPHERNALIA RETAILER** shall mean any establishment that sells any substance containing tobacco including but not limited to cigarettes, cigars, chewing tobacco and dipping tobacco, cigarette papers, or any other instruments or paraphernalia as defined in this ordinance. Retail businesses larger than 5,000 s.f. having less than 5% of their sales area devoted to tobacco or paraphernalia are exempt from this definition.
2. **PARAPHERNALIA** shall have the definition set forth in California Health & Safety Code section 11014.5, as that section may be amended from time to time.
3. For purposes of this Ordinance, a **COMPUTER GAMING AND INTERNET ACCESS BUSINESS** shall mean an establishment that provides a computer or other electronic devices for access to the world wide web, internet, e-mail, video games or computer software programs which operate alone or are networked (via LAN, WAN or otherwise) or which function as a client/server program, and which seeks compensation, in any form, from users. Computer Gaming and Internet Access Business is synonymous with a personal computer ("PC") café, internet café, cyber café, sweepstakes gaming facilities, business center, internet sales business and internet center, but does not include a Public Use or Internet Learning Center as defined herein.
4. **PUBLIC USE OR INTERNET LEARNING BUSINESS** shall mean an establishment that provides computer access which is operated by the City of Antioch, a school district, a library, a college district, or a private institution of learning which provides classes in computer instruction or a non-profit organization which does not receive compensation in any form other than school tuition.

SECTION 4. CEQA. This ordinance is not a project within the meaning of Section 15378 of the State CEQA (California Environmental Quality Act) Guidelines, because it has no potential for resulting in physical change in the environment, directly or ultimately. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guideline section 16061 (b) (3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

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SECTION 5. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 6. Effective Date. This interim ordinance shall take effect immediately upon its adoption and shall continue in effect for 10 months and 15 days from the date of its adoption by not less than a four-fifths vote of the Antioch City Council, unless superseded by a subsequent ordinance of the City Council.

SECTION 7. Report of Council. Ten days prior to the expiration of this Ordinance, or any extension thereof, this Council shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of this ordinance, or any extension thereof.

SECTION 8. Declaration of Urgency. This ordinance is hereby declared to be an urgency measure necessary for the immediate protection of the public health, safety and welfare. This Council hereby finds that there is a current and immediate threat to the public health, safety and welfare. The reasons for this urgency are declared and set forth in Section 2 of this Ordinance and are incorporated herein by reference.

SECTION 9. Publication; Certification. The City Clerk shall certify to the adoption of this Ordinance and cause same to be published in accordance with State law.

* * * * *

I HEREBY CERTIFY that the foregoing Ordinance was introduced and adopted as an urgency ordinance pursuant to the terms of California Government Code Section 65858 at a regular meeting of the City Council of the City of Antioch on the 9th day of July, 2013, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Wade Harper, Mayor of the City of Antioch

ATTEST:

Arne Simonsen, City Clerk of the City of Antioch

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ATTACHMENT "A"

STAFF REPORT TO THE CITY COUNCIL FOR CONSIDERATION AT THE MEETING OF MAY 28, 2013

Prepared by: Tina Wehrmeister, Community Development Director *tw*

Reviewed by: Jim Jakel, City Manager
Lynn Tracy Nerland, City Attorney

Date: May 23, 2013

Subject: Adoption of an Urgency Ordinance Establishing a Temporary Moratorium on the Establishment and Operation of Tobacco and Paraphernalia Retailers

RECOMMENDATION

It is recommended that the City Council adopt the attached urgency ordinance establishing a temporary moratorium on the establishment and operation of any new Tobacco and Paraphernalia Retailers to become effective immediately (4/5 vote required).

BACKGROUND INFORMATION & DISCUSSION

Public Nuisance Complaints

Over the past several years, both the Community Development Department and the Police Department have received numerous complaints regarding loitering and crime associated with Tobacco and Paraphernalia Retailers (as defined in the attached ordinance, also known as smoke shops). A review of one year of Police Department calls for service indicates that the twelve Tobacco and Paraphernalia Retailers listed in the ordinance findings generated 96 calls for service including incidents involving burglary and attempted burglary, armed robbery, fights and disturbances including those involving juveniles, petty theft, assault, threats, loitering, panhandling, harassment, stolen vehicles, and passing counterfeit bills.

Underage Tobacco Use

Many Tobacco and Paraphernalia Retailers are located in close proximity to schools, parks, and residential neighborhoods. Seven of the twelve listed Tobacco and Paraphernalia Retailers are located within several blocks of schools. Youth access to tobacco products and paraphernalia is concerning. According to the California Health Department's Food and Drug Branch, the sales rate to minors in Contra Costa County overall is 22%. In other words, stores in Contra Costa County on average sell tobacco to youth one in every four times they try to buy cigarettes.

Violations of State and Local Laws regarding Paraphernalia

The California Health and Safety Code Section 11364.5 and Title 5, Chapter 16 of the Antioch Municipal Code contain provisions regulating the manner of sale of paraphernalia. A Code Enforcement inspection of ten Tobacco and Paraphernalia Retailers found that all were in violation of these State and local laws which require that paraphernalia be kept and displayed in

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a separate room or enclosure and that access by anyone under the age of 18 not accompanied by a parent or legal guardian is prohibited. Most Tobacco and Paraphernalia Retailers display paraphernalia in the general sales area of the store in violation of State and local law. Paraphernalia is defined in State and local law as: all equipment, products, and materials of any kind which are intended for use or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance. "Paraphernalia" includes, but is not limited to, all of the following:

1. Kits intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
2. Kits intended for use or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.
3. Isomerization devices intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance.
4. Testing equipment intended for use or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances.
5. Scales and balances intended for use or designed for use in weighing or measuring controlled substances.
6. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, intended for use or designed for use in cutting controlled substances.
7. Separation gins and sifters intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.
8. Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in compounding controlled substances.
9. Capsules, balloons, envelopes, and other containers intended for use or designed for use in packaging small quantities of controlled substances.
10. Containers and other objects intended for use or designed for use in storing or concealing controlled substances.
11. Hypodermic syringes, needles, and other objects intended for use or designed for use in parenterally injecting controlled substances into the human body.
12. Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as the following:
 - a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.

- b. Water pipes.
- c. Carburetion tubes and devices.
- d. Smoking and carburetion masks.
- e. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand.
- f. Miniature cocaine spoons, and cocaine vials.
- g. Chamber pipes.
- h. Carburetor pipes.
- i. Electric pipes.
- j. Air-driven pipes.
- k. Chillums.
- l. Bongs.
- m. Ice pipes or chillers.

Violations of Local Laws regarding Self Serve Tobacco Displays

The California Business and Professions Code Section 22962 and Antioch Municipal Code Section 6-8.13 prohibit sale or display of any tobacco product by means of a self-service display rack, counter-top or shelf that allows any self-service customer access to any tobacco product. All tobacco products must be offered for sale exclusively by means of seller assistance and shall be located exclusively in a locked case, located behind counters out of reach of customers, or in a similar location that is inaccessible to customers, requiring seller assistance for the customer to obtain access to the tobacco products. Three of the inspected Tobacco and Paraphernalia Retailers were in violation these regulations. This is particularly concerning given the ease of access to youth. Many Tobacco and Paraphernalia Retailers also sell candy, snacks and other products that are attractive to youth.

Violations of Local Laws regarding Tobacco Advertising and General Advertising

Section 9-5.519 of the Antioch Municipal Code regulates tobacco related signage and states that advertising promoting tobacco products is prohibited when located within 1,600 feet of an elementary or secondary school, public playground or playing field when visible from the public street or sidewalk. One of the inspected Tobacco and Paraphernalia Retailers was in violation of this Code.

Section 9-5.508(L)(2) prohibits signage, either temporary or permanent, where placed within, upon, or over any public street right-of-way, parking area, sidewalk, required landscaping or utility pole. One of the inspected Tobacco and Paraphernalia Retailers was in violation of this Code.

Urgency Ordinance

The Zoning Ordinance does not currently specifically define or regulate Tobacco and Paraphernalia Retailers. Therefore, Tobacco and Paraphernalia Retailers are considered general or specialty retailers and are permitted uses in a variety of commercial districts.

The Municipal Code does contain regulations regarding various aspects and issues related to tobacco and paraphernalia sales such as those discussed above and included in Title 6, Chapter 8 related to smoking in general; however, the Code does not include regulations as to the time, place, or manner for Tobacco and Paraphernalia Retailers such as proximity to schools and parks and over concentration. Staff needs additional time to study these issues. Therefore, staff is recommending adoption of the proposed moratorium pursuant to Government Code Section 65858 that would prohibit any more of these uses in Antioch while these issues are being reviewed. Existing uses would not be impacted by this Urgency Ordinance, but are discussed below. Note that retail businesses larger than 5,000 s.f. having less than 5% of their sales area devoted to tobacco or paraphernalia are exempt from the definition of Tobacco and Paraphernalia Retailer.

Existing Tobacco and Paraphernalia Retailers

Both Code Enforcement and Police Department staff has been drastically reduced, with Code Enforcement being completely eliminated for a period of approximately three years. This means that proactive enforcement of local and State laws regulating Tobacco and Paraphernalia Retailers has not been possible and as evidenced by the notices of violation issued by Code Enforcement these businesses are not voluntarily complying with State and local laws.

Staff is reviewing existing regulations given the extensive non-compliance issues with State and local laws described above. Part of this review would look at whether the noncompliance is a staffing/enforcement issue or whether further regulations more specifically tied to the public nuisance provisions in the Municipal Code would be appropriate and legal.

FISCAL IMPACT

There is no significant fiscal impact anticipated with the adoption of the proposed urgency ordinance. There will be staff time expended to prepare the land use ordinance addressing Tobacco and Paraphernalia Retailers and to review and make recommendations regarding regulations for existing businesses.

OPTIONS

The Council may choose not to adopt the urgency ordinance.

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH ADOPTING AN INTERIM URGENCY ZONING ORDINANCE PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65858 PROHIBITING THE ISSUANCE OF PERMITS, LICENSES OR APPROVALS FOR CONSTRUCTION, ESTABLISHMENT OR OPERATION OF TOBACCO AND PARAPHERNALIA RETAILERS WITHIN THE CITY ON AN INTERIM BASIS PENDING CONSIDERATION OF AMENDMENTS TO TITLE 9 OF THE ANTIOCH MUNICIPAL CODE FOR A PERIOD OF FORTY-FIVE DAYS AND DECLARING THE URGENCY THEREOF

The City Council of the City of Antioch does ordain as follows:

SECTION 1. Interim Urgency Zoning Ordinance. This ordinance is adopted pursuant to the authority of Section 65858 of the Government Code of the State of California, the Antioch City Municipal Code and applicable laws.

SECTION 2. Findings. The Antioch City Council hereby finds, determines and declares as follows:

A. The City of Antioch holds the right to make and enforce all laws and regulations not in conflict with general laws, and the City holds all rights and powers established by state law.

B. The City has received and anticipates additional requests for the construction, establishment and operation of Tobacco and Paraphernalia Retailer businesses (as defined herein) within the City. However, the provisions of the City Municipal Code that may regulate the construction, operation and establishment of Tobacco and Paraphernalia Retailer businesses in the City are inadequate and need review, study, and revision. The current provisions also fail to fully take into account the impacts related to the location and manner of construction, establishment and operation of Tobacco and Paraphernalia Retailer businesses, and the related public health, safety, and welfare concerns, including but not limited to the impacts they may have on parking, surrounding uses, and the community.

C. Tobacco and Paraphernalia Retailer businesses often have local school students and minors as their target market, and thereby may encourage the assembly of significant numbers of minors without supervision by parents or guardians, not to mention use of tobacco products or illegal substances. Seven of the twelve Tobacco and Paraphernalia Retailers listed below are located within several blocks of schools. Further, given concerns about attendance at the Antioch Unified School District such congregation of students should not be allowed during regular school hours.

D. The City Council of the City of Antioch is concerned with exposure of youth to tobacco products and prevalence of smoking among youth:

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1. In California, 11.9% of the adult population¹ and 14.6% of teenagers² currently smoke.
2. Although it is unlawful to sell tobacco products and/or tobacco paraphernalia to minors,³ 5.6% of California retailers surveyed do sell to minors.⁴ These numbers are more concerning locally. According to the California Health Department's Food and Drug Branch, the sales rate to minors in Contra Costa County overall is 22%⁵. In other words, stores in Contra Costa County on average sell tobacco to youth one in every four times they try to buy cigarettes.

E. The City Council of the City of Antioch is also concerned with the increased calls for service, increasing reports of violent criminal behavior and related detrimental neighborhood effects associated with Tobacco and Paraphernalia Retailers. The City of Antioch needs additional time to study this issue and determine if concentration and/or location of Tobacco and Paraphernalia Retailers in close proximity to other uses with generally high rates of calls for service such as bars or liquor stores would exasperate these concerns. The City of Antioch is also concerned about uses with high rates of calls for service in proximity to youth including schools and parks.

F. The City of Antioch, as well as neighboring cities, have experienced criminal activity associated with Tobacco and Paraphernalia Retailers, including incidents involving burglary and attempted burglary, armed robbery, fights and disturbances including those involving juveniles, petty theft, assault, threats, loitering, panhandling, harassment, stolen vehicles, and passing counterfeit bills. For example, the Antioch Police Department has documented a significant amount of calls for service involving a variety of crimes in these businesses and within the shopping centers in which Tobacco and Paraphernalia Retailers are located. Included below as findings are representational incidents associated with Tobacco and Paraphernalia Retailers for the 12 month period from May 9, 2012 – May 9, 2013 (not all businesses were in operation for the entire period):

1. Cigarette 4 Less, 3142 Contra Loma Blvd: two (2) calls for service related to an alarm and an alleged fight between juveniles in the area.
2. Cigarette 4 Less, 2549 San Jose Drive: eleven (11) calls for service related to alarms, petty thefts, a civil complaint and an assault.
3. Smoke Shop, 4532 Lone Tree Way: five (5) calls for service related to a robbery, petty thefts, unfounded 911 call and a fight inside the store.

¹ Cal. Dep't Health Servs, Tobacco Control Program, Smoking Prevalence Among California Adults (April 2011).

² Cal. Dep't Health Servs, Tobacco Control Sec., 30-Day Smoking Prevalence Among California Youth (September 2009).

³ Cal. Penal Code § 308

⁴ Cal. Dep't Health Servs, Tobacco Control Sec., Youth Tobacco Purchase Survey 1995-2011

⁵ California Department of Health Services Food and Drug Branch Compliance Checks, 2003.

4. Smoke Shop DBA Cigarette 4 Less, 2767 Lone Tree Way: two (2) calls for service related to an armed robbery and false alarm.
5. Cigarette 4 Less, 2727 Hillcrest Ave: five (5) calls for service related to alarms, a threat complaint, armed robbery and a suspicious circumstance.
6. Sycamore Smoke & More, 1096 Sycamore Drive: thirty-one (31) calls for service related to unwanted guests, loitering complaints, assaults, panhandling and fighting.
7. Cigarette 4 Less, 3708 Lone Tree Way: six (6) calls for service related to alarms, juvenile disturbance and a burglary of the business.
8. Tower Zone Smoke Shop, 2717 Contra Loma Blvd.: five (5) calls for service related to an armed robbery, petty theft and 911 hang-up.
9. Lone Tree Cigarette & More Inc., 4839 Lone Tree Way Suite C: eight (8) calls for service related to alarms, armed robbery, petty theft, harassment and suspicious persons.
10. Smoke Shop Mini Market, 1515 A Street: eleven (11) calls for service related to threats, loitering, juvenile disturbance, panhandling, stolen cars, an alarm, counterfeit bill and petty theft.
11. Discount Cigarette & Cigar Store, 1615 A Street: nine (9) calls for service related to an alarm, a fight in the parking lot in front of the business, medical call, burglary, unwanted guest, a suspicious person, a suspicious circumstance and a fraud (counterfeit) complaint.
12. Fusion Novelties, 1336 Sunset Drive: one (1) call for service related to a vandalism – broken window.

G. In addition to the increased calls for service and increasing reports of violent criminal behavior described above, the City Council is also concerned that Tobacco and Paraphernalia Retailers are not complying with applicable State and local laws related to tobacco and paraphernalia sales. Code Enforcement staff has inspected the businesses listed below and found violations of California Health and Safety Code 11364.5 and Antioch Municipal Code Title 5, Chapter 16 related to paraphernalia sales; Municipal Code Section 9-5.519 related to tobacco advertising; Municipal Code 9-5.508 related to general advertising; and California Business and Professions Code 22962 and Municipal Code 6-8.13 related to self service display of tobacco:

1. Buchanan Smoke Shop, 2329A Buchanan Road: notice of violation for illegal display of paraphernalia. This location opened in April 2013 and is therefore not listed above as they did not have calls for service during the 12 month period.

2. Lone Tree Cigarette & More Inc., 4839 Lone Tree Way Suite C: notice of violation for illegal display of paraphernalia and tobacco related signs.
3. Cigarette 4 Less, 3142 Contra Loma Blvd: notice of violation for illegal display of paraphernalia, general signage, and self service tobacco.
4. Smoke Shop DBA Cigarette 4 Less, 2767 Lone Tree Way: notice of violation for illegal display of paraphernalia, and self service tobacco.
5. Cigarette 4 Less, 2727 Hillcrest Ave: notice of violation for illegal display of paraphernalia.
6. Cigarette 4 Less, 3708 Lone Tree Way: notice of violation for illegal display of paraphernalia, and self service tobacco.
7. Tower Zone Smoke Shop, 2717 Contra Loma Blvd.: notice of violation for illegal display of paraphernalia.
8. Smoke Shop Mini Market, 1515 A Street: notice of violation for illegal display of paraphernalia.
9. Discount Cigarette & Cigar Store, 1615 A Street: notice of violation for illegal display of paraphernalia.
10. Fusion Novelties, 1336 Sunset Drive: notice of violation for illegal display of paraphernalia.

H. Without the enactment of this Ordinance, multiple applicants could quickly receive entitlements which would allow additional Tobacco and Paraphernalia Retailers that pose a threat to the public health, safety, and welfare. The City Council hereby determines that the Municipal Code is in need of updating to protect the public health, safety, and welfare from dangers caused by Tobacco and Paraphernalia Retailers. The City requires additional time to prepare, evaluate and adopt reasonable regulations regarding the construction, placement, concentration and operation of Tobacco and Paraphernalia Retailers so that such regulations are applied in a nondiscriminatory manner.

I. In order to prevent the frustration of these studies and the implementation of new regulations, the public interest, health, safety, and welfare require immediate enactment of this Ordinance. The absence of this Ordinance would impair the orderly and effective implementation of contemplated Municipal Code amendments, and any further authorization of these uses within the City during the period of the interim zoning regulations may be in conflict with or may frustrate the contemplated updates and revisions of the Municipal Code.

J. Based on the foregoing, the City finds that there is a current and immediate threat to the public health, safety, or welfare and that this Ordinance is necessary in order to protect the City from the potential effects and impacts of Tobacco and Paraphernalia Retailers in the City, potential increases in crime, impacts on parking availability in the business areas of the City, the aesthetic impacts to the City, and other similar or related effects on property values and the quality of life in the City's neighborhoods.

K. The City Council further finds that this interim zoning regulation is a matter of local and City-wide importance and is not directed towards any particular business that currently seeks to construct or operate a Tobacco and Paraphernalia Retailer business.

L. The City Council finds that this Ordinance is authorized by the City's police powers. The City Council further finds that the length of the interim zoning regulations imposed by this Ordinance will not in any way deprive any person of rights granted by state or federal laws, because the interim zoning regulation is short in duration and essential to protect the public health, safety and welfare.

SECTION 3. Interim Regulations. The following provisions are hereby adopted as interim zoning standards pertaining to the review or approval of any entitlements or the issuance of any permits or licenses pursuant to the Antioch Municipal Code for Tobacco and Paraphernalia Retailers. The approval of any entitlements or the issuance of any permit or license in the City in conflict with these provisions is expressly prohibited:

- A. **Restricted Activities.** For a period of forty-five (45) days following the enactment of this Ordinance, no person shall be issued a permit, license or land use entitlement for the construction, placement, or operation of new Tobacco and Paraphernalia Retailer businesses within the City. The City Manager or his or her designee shall review any application for a permit, license or land use entitlement to determine applicability of the provisions of this Ordinance. City Staff, City boards and City commissions are directed to refrain from issuing any application for any permits, licenses or land use entitlement, including, but not limited to, use permits, variances, building permits, licenses and certificates of occupancy, necessary for construction, placement, or operation of a Tobacco and Paraphernalia Retailer business. These prohibitions shall remain in effect during the forty-five (45) days following enactment of this Ordinance. Existing Tobacco and Paraphernalia Retailer businesses may continue to operate at their current locations provided that they are in compliance with State law and the Antioch Municipal Code.
- B. **Definitions.** In addition to the definitions contained in the City's Municipal Code, the following words and phrases shall, for the purposes of this Ordinance, be defined as follows, unless it is clearly apparent from the context that another meaning is intended. Should any of the definitions be

in conflict with the current provisions of the Municipal Code, the following definitions shall prevail:

1. **TOBACCO AND PARAPHERNALIA RETAILER** shall mean any establishment that sells any substance containing tobacco including but not limited to cigarettes, cigars, chewing tobacco and dipping tobacco, cigarette papers, or any other instruments or paraphernalia as defined in this ordinance. Retail businesses larger than 5,000 s.f. having less than 5% of their sales area devoted to tobacco or paraphernalia are exempt from this definition.
2. **PARAPHERNALIA** shall have the definition set forth in California Health & Safety Code section 11014.5, as that section may be amended from time to time.

SECTION 4. CEQA. This ordinance is not a project within the meaning of Section 15378 of the State CEQA (California Environmental Quality Act) Guidelines, because it has no potential for resulting in physical change in the environment, directly or ultimately. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guideline section 16061 (b) (3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

SECTION 5. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 6. Effective Date. This interim ordinance shall take effect immediately upon its adoption and shall continue in effect for forty-five (45) days from the date of its adoption by not less than a four-fifths vote of the Antioch City Council, and shall thereafter be of no further force and effect, unless, after notice pursuant to Government Code Section 65090 and public hearing, the Antioch City Council extends this Ordinance, and the interim zoning regulations adopted thereby, pursuant to Government Code Section 65858.

SECTION 7. Report of Council. Ten days prior to the expiration of this Ordinance, or any extension thereof, this Council shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of this ordinance, or any extension thereof.

SECTION 8. Declaration of Urgency. This ordinance is hereby declared to be an urgency measure necessary for the immediate protection of the public health, safety

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and welfare. This Council hereby finds that there is a current and immediate threat to the public health, safety and welfare. The reasons for this urgency are declared and set forth in Section 2 of this Ordinance and are incorporated herein by reference.

SECTION 9. Publication; Certification. The City Clerk shall certify to the adoption of this Ordinance and cause same to be published in accordance with State law.

* * * * *

I HEREBY CERTIFY that the foregoing Ordinance was introduced and adopted as an urgency ordinance pursuant to the terms of California Government Code Section 65858 at a regular meeting of the City Council of the City of Antioch on the ___ day of ___, 2013, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Wade Harper, Mayor of the City of Antioch

ATTEST:

Arne Simonsen, City Clerk of the City of Antioch

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ATTACHMENT "B"

STAFF REPORT TO THE CITY COUNCIL FOR CONSIDERATION AT THE MEETING OF FEBRUARY 28, 2012

Prepared by: Tina Wehrmeister, Community Development Director *TW*
Reviewed by: Jim Jakel, City Manager *JJ*
Date: February 23, 2012
Subject: Computer Gaming and Internet Access Businesses

RECOMMENDATION

It is recommended that the City Council:

1. Motion to read the Interim Urgency Zoning Ordinance, Urgency Ordinance and Regular Ordinance by title only;
2. Motion to adopt the attached Interim Urgency Zoning Ordinance prohibiting the issuance of permits, licenses or approvals for construction, establishment or operation of any computer gaming and internet access business within the City of Antioch on an interim basis pending consideration of amendments to Title 9 of the Antioch Municipal Code for a period of forty-five days and declaring the urgency thereof (four-fifths vote required) (Attachment "A");
3. Motion to adopt an Urgency Ordinance amending Title 5 of the Antioch Municipal Code by adding Chapter 11 pertaining to the licensing procedures and regulations for Computer Gaming and Internet Access Businesses and making findings declaring the urgency thereof (four-fifths vote required) (Attachment "B");
4. Motion to introduce a Regular Ordinance amending Title 5 of the Antioch Municipal Code by adding Chapter 11 pertaining to the licensing procedures and regulations for Computer Gaming and Internet Access Businesses (majority vote required) (Attachment "C"); and
5. Motion to adopt a resolution to initiate an amendment to the Zoning Ordinance to address computer gaming and internet access businesses (majority vote required) (Attachment "D").

BACKGROUND INFORMATION

Operations at Internet Room, T's Internet Café and Cot on the Web

During the past two years, the City received business license applications for the Internet Room (2962 Delta Fair Boulevard), T's Internet Café (1908 A Street and previously at 1836 A Street and 1653 A Street) and Cot on the Web (2333 Buchanan Road), which were described as offering "print, copy, fax services and internet access" or "internet sales" (Attachment "E"). In effect, City staff envisioned Kinko's-like businesses offering copying, computer and fax services

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to small businesses and individuals and thus the businesses were allowed to open as permitted uses at the given locations.

However, the City began receiving complaints regarding nuisance and illegal activities occurring in and near these facilities, such as loitering, vandalism, panhandling, theft, and assaults. The Police Department prepared a summary chart showing calls at each location and the surrounding vicinity before and during the time the use opened (Attachment "F"). Of particular note, at 1836 A Street, before T's Internet Café opened there were 157 calls for service from that location and neighboring businesses over a 7-month period from February 1, 2009 through August 30, 2009. While T's Internet Café was operating at 1836 A Street, calls for service increased to 240 (a 52% increase) over a 7-month period from February 1, 2010 through August 30, 2010. When T's Internet Café closed at that location, calls for service from that location and neighboring businesses went back down to 158 calls for service over the 7-month period from February 1, 2011 through August 30, 2011, almost identical to the rates before T's Internet Café opened.

Attachment "G" shows 9-1-1 calls for service at each location. The Police Department also indicates that the following number of arrests were made at each location for the given time period. This does not mean that all of the arrested individuals committed crimes at these locations, but reflects that those engaged in criminal activity frequent these locations. The arrests were for violations including robbery, illegal drug use and sales, burglary, assaults, public intoxication, as well as arrests for outstanding warrants:

<u>Business</u>	<u>Location</u>	<u>Time Period</u>	<u># Arrests</u>
Internet Room	2962 Delta Fair Blvd.	2/11/11-02/15/12	2
T's Internet Café	1908 A Street	08/20/11-12/31/11	9
T's Internet Café	1653 A Street	09/01/10-08/31/11	14
T's Internet Café	1836 A Street	03/06/10-07/23/10	5
Cot on the Web	2333 Buchanan #A	09/01/11-02/15/12	1

Upon visiting these businesses during the course of investigating complaints, staff found that the primary activity of the patrons at each of these locations is playing a sweepstakes game, which resembles video slot machines. A copy of the "Sweepstakes Rules" from the Cot on the Web is attached (Attachment "H"). Concerns were raised that the on-going "sweepstakes games" appeared to be potentially illegal gambling; although, that is not the focus of the action before the City Council.

Ms. Simmons, the owner of T's Internet Café (now closed) and Cot on the Web has stated that her business sells internet time and also runs a sweepstakes as a promotional tool to draw customers. The customer receives a number of sweepstakes entries proportional to the amount of internet time purchased. The customer then plays the sweepstakes entries on the computer via an interface that resembles a video slot machine. At Cot on the Web, the potential maximum single winnings are over \$1,000. At the Internet Room, staff was told that a maximum single winning payout could reach \$2,800.

Determination that Use was a Mechanical or Electrical Game

With rising concerns about the general health, safety, and welfare of the community, staff determined that the primary activity at these facilities was not offering internet, copy, print and fax services to small businesses, but rather a gaming business. Putting aside whether this gaming activity is illegal gambling under state law, the Community Development Director

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determined that the use was more properly classified as a Mechanical or Electronic Game, pursuant to Municipal Code Section 9-5.3816 (Attachment "I"). Such uses are prohibited within 1000 feet of a playground or school and a use permit is required for other locations.

Once this determination was made, staff sent Notices of Violation to the existing internet café/sweepstakes businesses and did not permit T's Internet Café to relocate without first obtaining a use permit (Attachment "J"). The owners of all three businesses have appealed that determination (Attachment "K"). In part, Allan Moore, the attorney for the Internet Room, indicates that his client is engaged in internet activities protected by the First Amendment and that the California Appellate Court in *Vo v. City of Garden Grove* (115 Cal. App. 4th 425(2004)) does not allow for unfettered discretion in issuing a use permit for such a use. However, in discussions with staff, the businesses expressed a willingness to work with the City to address the concerns through appropriate regulations.

Urgency Ordinance

To adopt a regular ordinance, a first reading of the ordinance is held and then a second reading to adopt the ordinance at a regular meeting of the City Council. A regular ordinance is effective 30 days after adoption. An urgency ordinance is adopted at one meeting and takes effect immediately following a 4/5 vote of the City Council finding that there is a need for the immediate preservation of the public peace, health and safety.

It is not uncommon for a city council to adopt an urgency ordinance followed by taking the steps to adopt a regular ordinance in case there is any question about the findings for the immediate preservation of the public peace, health and safety.

Interim Ordinances/Moratoriums

An interim zoning ordinance is often called a moratorium and takes effect immediately to prohibit a use. Pursuant to Government Code Section 65858, the City may establish a moratorium prohibiting any use that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the City Council, Planning Commission or the Planning Department is considering in order to protect and preserve the public safety, health and welfare. A moratorium lasts only 45 days, but may be extended for up to a total of two (2) years, provided that the current and immediate threat to the public safety, health and welfare still exists, and the City follows the public notice and hearing procedures for extension of the moratorium. Interim ordinances require a 4/5 vote of the City Council.

In order to initiate a zoning ordinance, a Resolution of Initiation is required by the Antioch Municipal Code directing staff, and then presumably the Planning Commission, to consider whether amendments to the zoning ordinance (Title 9 of the Antioch Municipal Code) are appropriate.

DISCUSSION

Rather than continue to debate whether the existing computer gaming and internet access businesses fall within the existing Mechanical or Electronic Game Ordinance in Antioch Municipal Code Section 9-5.3816 through appeals to the Board of Administrative Appeals, staff recommends that the City Council use its regulatory police power to study and address these uses and their impacts. Staff proposes the following definition for these uses:

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"Computer Gaming and Internet Access Business" shall mean an establishment that provides more than four (4) computers or other electronic devices for access to the world wide web, internet, e-mail, video games or computer software programs which operate alone or are networked (via LAN, WAN or otherwise) or which function as a client/server program, and which seeks compensation, in any form, from users. Computer Gaming and Internet Access Business is synonymous with a personal computer ("PC") café, internet café, cyber café, sweepstakes gaming facilities, business center, internet sales business and internet center, but does not include a Public Use or Internet Learning Center as defined herein.

"Public Use or Internet Learning Center" shall mean an establishment that provides computer access which is operated by the City of Antioch, a school district, a library, a college district, or a private institution of learning which provides classes in computer instruction or a non-profit organization which does not receive compensation in any form other than school tuition.

It is presumed that the businesses would not feel compelled to continue with their appeals of the Community Development Director's determination that their businesses fall under Mechanical or Electronic Game Ordinance in Antioch Municipal Code Section 9-5.3816, as the more specific Interim Zoning Ordinance and Urgency Ordinance will in effect supersede the application of the Mechanical or Electronic Game Ordinance making the appeals moot.

During this study period, no new computer gaming and internet access businesses could open and the existing two businesses would be required to follow the regulations set forth in the Urgency Ordinance (Attachment "B"). This approach should alleviate any concerns that the City is negatively impacting anyone's ability to access the internet and possible First Amendment rights. During this study period, City staff can meet with the representatives of these businesses to better address the issues that have been raised.

It should also be noted that computers accessing the internet are available at no charge at the Library Annex at the Antioch Community Center at Prewett Park and at the Antioch Library located at 501 W. 18th Street.

Urgency Findings

The existing computer gaming and internet access businesses have created impacts that create immediate threats to the public peace, health or safety, as more specifically shown in the testimony provided by the Police Department including the log of the calls for service at each facility; summary showing calls for service at each location and the surrounding vicinity before and during the time the use opened; and arrests from these various locations.

Threats to public health, safety and welfare experienced in Antioch at the computer gaming and internet access businesses include criminal activity associated with robbery, illegal drug use and sales, burglary, assaults, public intoxication, vandalism, property damage and loitering. It is also known that other cities have experienced significant gang-related activities and prostitution occurring at these computer gaming and internet access businesses. Truancy and curfew violations have also been experienced in other communities.

Operation of additional computer gaming and internet access businesses will increase these negative impacts while the use is being studied. Further, additional computer gaming and internet access businesses could create conflicts among land uses or conflict with the City's

long-term planning goals. Thus, it is recommended that the City Council also adopt a resolution initiating an Amendment to the Zoning Ordinance to formally commence the process for studying land use issues related to computer gaming and internet access businesses, including whether the uses should only be allowed in specific zoning districts, whether there should be limitations on the concentration of uses, and similar issues.

Proposed Regulations

The proposed regulations set forth in the Urgency Ordinance and Regular Ordinance to establish a licensing scheme for Computer Gaming and Internet Access Businesses and address operational issues like prohibiting minors in the business during school hours, hours of operation, establishment of an interior waiting area with seats to avoid loitering, staffing levels, surveillance system, alarm system, security guards, prohibition on private rooms and the like. Staff has already scheduled a meeting with the business operators for Monday, February 27, 2012 to address these regulations and related items. Staff will be reporting at the City Council meeting regarding the outcome of this meeting.

FISCAL IMPACT

The computer gaming and internet access businesses are causing negative impacts to the City's limited police resources, so it is prudent to address the negative impacts.

There is no direct fiscal impact with the adoption of the proposed Interim Urgency Zoning Ordinance and Urgency Ordinance, introduction of the Regular Ordinance and adoption of the Resolution Initiating a Zoning Amendment. There will be staff time expended to meet with business representatives and to finalize a Regular Ordinance and prepare a Zoning Amendment, if appropriate.

OPTIONS

1. If the Council chose not to adopt the Interim Urgency Zoning Ordinance by 4/5 vote, then additional computer gaming and internet access businesses could open without the benefit of the City further studying the impacts of these businesses and appropriate land use regulations.
2. If the Council chose not to adopt the Urgency Ordinance by 4/5 vote, then the Regular Ordinance can be introduced on a majority vote. The Regular Ordinance would require a second reading for adoption and then be effective 30 days later.
3. The Council could choose not to initiate a Resolution for a Zoning Amendment, but staff recommends that the Council start the process for staff, and potentially Planning Commission, to at least study the issue to determine if Zoning Ordinance Amendments would be appropriate for this computer gaming and internet access business use.

ATTACHMENTS

- A. Interim Urgency Zoning Ordinance prohibiting the issuance of permits, licenses or approvals for construction, establishment or operation of any computer gaming and internet access business within the City of Antioch on an interim basis pending consideration of amendments to Title 9 of the Antioch Municipal Code for a period of forty-five days and declaring the urgency thereof

- B. Urgency Ordinance amending Title 5 of the Antioch Municipal Code by adding Chapter 11 pertaining to the licensing procedures and regulations for Computer Gaming and Internet Access Businesses and making findings declaring the urgency thereof
- C. Regular Ordinance amending Title 5 of the Antioch Municipal Code by adding Chapter 11 pertaining to the licensing procedures and regulations for Computer Gaming and Internet Access Businesses
- D. Resolution to initiate an amendment to the Zoning Ordinance to address Computer Gaming and Internet Access Businesses
- E. Business License Applications for Internet Room, T's Internet Café and Cot on the Web
- F. Comparison of Calls for Service prepared by the Police Department
- G. Log of Calls for Service at the Internet Room, T's Internet Café and Cot on the Web
- H. Sweepstakes Rules from Cot on the Web
- I. Municipal Code Section 9-5.3816
- J. Determination by Community Development Director regarding uses
- K. Appeals by the Internet Room, T's Internet Café and Cot on the Web

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ATTACHMENT "A"

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH ADOPTING AN INTERIM URGENCY ZONING ORDINANCE PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65858 PROHIBITING THE ISSUANCE OF PERMITS, LICENSES OR APPROVALS FOR CONSTRUCTION, ESTABLISHMENT OR OPERATION OF COMPUTER GAMING AND INTERNET ACCESS BUSINESSES WITHIN THE CITY ON AN INTERIM BASIS PENDING CONSIDERATION OF AMENDMENTS TO TITLE 9 OF THE ANTIOCH MUNICIPAL CODE FOR A PERIOD OF FORTY-FIVE DAYS AND DECLARING THE URGENCY THEREOF

The City Council of the City of Antioch does ordain as follows:

SECTION 1. Interim Urgency Zoning Ordinance. This ordinance is adopted pursuant to the authority of Section 65858 of the Government Code of the State of California, the Antioch City Municipal Code and applicable laws.

SECTION 2. Findings. The Antioch City Council hereby finds, determines and declares as follows:

A. The City of Antioch holds the right to make and enforce all laws and regulations not in conflict with the general laws, and the City holds all rights and powers established by state law.

B. The City has received and anticipates additional requests for the construction, establishment and operation of Computer Gaming and Internet Access Businesses (as defined herein) within the City. However, the provisions of the City Municipal Code that may regulate the construction, operation and establishment of Computer Gaming and Internet Access Businesses in the City are inadequate and need review, study, and revision. The current provisions also fail to fully take into account the impacts related to the location and manner of construction, establishment and operation of Computer Gaming and Internet Access Businesses, and the related public health, safety, and welfare concerns, including but not limited to the impacts they may have on parking, surrounding uses, and the community.

C. Computer Gaming and Internet Access Businesses often have local school students and minors as their target market, and thereby may encourage the assembly of significant numbers of minors without supervision by parents or guardians. Further, given concerns about attendance at the Antioch Unified School District such congregation of students should not be allowed during regular school hours.

D. While the City's codes do regulate mechanical or electronic games, the computer stations at Computer Gaming and Internet Access Businesses are used in a manner that may be considered different from coin-operated video game machines, and therefore have different impacts. There is generally a charge for use of the computer station, and many users may occupy a particular station for multiple consecutive hours,

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creating unknown impacts on the surrounding area and businesses, such as observed lines of individuals waiting to access these businesses. Some Computer Gaming and Internet Access Businesses may stage late-night gaming sessions, which may encourage violation of the City's curfew ordinance or create and promote other late-night noise and related impacts on the surrounding community. Recently there have been Computer Gaming and Internet Access Businesses that promote "sweepstakes gaming" which encourages game playing that may provide chances to be awarded prizes. The extended use of such facilities by multiple persons waiting for a limited number of computer stations could contribute to increased detrimental effects on the commercial area where located and the surrounding residential area.

E. The City Council of the City of Antioch is also concerned with the increased calls for service, increasing reports of violent criminal behavior and related detrimental neighborhood effects associated with Computer Gaming and Internet Access Businesses.

F. The City of Antioch, as well as neighboring cities, have experienced criminal activity associated with Computer Gaming and Internet Access Businesses, including incidents involving robbery, illegal drug use and sales, burglary, assaults, public intoxication, vandalism and property damage and loitering. It is also known that other cities have experienced significant gang-related activities and prostitution occurring at these Computer Gaming and Internet Access Businesses. For example, the Antioch Police Department has documented a significant increase in service related calls involving a variety of crimes in these businesses and within the neighborhoods adjacent to Computer Gaming and Internet Access Businesses and include the representational incidents below as findings as follows:

1. On April 13, 2010, there was a call for service from T's Internet Café at 1836 A Street because of a fight over someone owing someone money and on July 23, 2010 a call for service regarding another fight.
2. At T's Internet Café at 1653 A Street on September 11, 2010, there was a call for service regarding possible assault, drug violations and carjacking. On November 18, 2010, a male robbed money from the business with a sawed-off shot gun and shot at one of the workers. On February 2, 2011, there was a call for service regarding drug selling. On July 21, 2011, there was a report of a car theft and then a fight broke out.
3. At the Internet Room at 2962 Delta Fair Boulevard, on January 28, 2012, there was a report of a stolen vehicle.
4. At T's Internet Café at 1908 A Street on August 20, 2011, someone was throwing things at the business and threatening to harm the employees.
5. While at Computer Gaming and Internet Access Businesses in Antioch, individuals have been arrested for robbery, narcotics violations, carjacking and other crimes, as well as on outstanding warrants. While some of

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these crimes may have occurred elsewhere, it does show a propensity for individuals who engage in criminal activity to patronize Computer Gaming and Internet Access Businesses.

6. At 2962 Delta Fair Boulevard, calls for service have increased at that location and at neighboring businesses as much as 450% since the Internet Room started operating.
7. At 1836 A Street, before T's Internet Café opened there were 157 calls for service from that location and neighboring businesses over a 7-month period from February 1, 2009 through August 30, 2009. While T's Internet Café was operating at 1836 A Street, calls for service increased to 240 (a 52% increase) over a 7-month period from February 1, 2010 through August 30, 2010. When T's Internet Café closed at that location, calls for service from that location and neighboring businesses went back down to 158 calls for service over the 7-month period from February 1, 2011 through August 30, 2011, almost identical to the rates before T's Internet Café opened.

G. Without the enactment of this Ordinance, multiple applicants could quickly receive entitlements which would allow additional Computer Gaming and Internet Access Businesses that pose a threat to the public health, safety, and welfare. The City Council hereby determines that the Municipal Code is in need of updating to protect the public against health, safety, and welfare dangers caused by Computer Gaming and Internet Access Businesses. The City requires additional time to prepare, evaluate and adopt reasonable regulations regarding the construction, placement and operation of Computer Gaming and Internet Access Businesses so that such regulations are applied in a nondiscriminatory manner.

H. In order to prevent the frustration of these studies and the implementation of new regulations, the public interest, health, safety, and welfare require immediate enactment of this Ordinance. The absence of this Ordinance would impair the orderly and effective implementation of contemplated Municipal Code amendments, and any further authorization of these uses within the City during the period of the interim zoning regulations may be in conflict with or may frustrate the contemplated updates and revisions of the Municipal Code.

I. Based on the foregoing, the City finds that there is a current and immediate threat to the public health, safety, or welfare and that this Ordinance is necessary in order to protect the City from the potential effects and impacts of Computer Gaming and Internet Access Businesses in the City, potential increases in crime, impacts on parking availability in the business areas of the City, the aesthetic impacts to the City, and other similar or related effects on property values and the quality of life in the City's neighborhoods.

J. The City Council further finds that this interim zoning regulation is a matter of local and City-wide importance and is not directed towards any particular business that

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currently seeks to construct or operate a Computer Gaming and Internet Access Business.

K. The City Council finds that this Ordinance is authorized by the City's police powers. The City Council further finds that the length of the interim zoning regulations imposed by this Ordinance will not in any way deprive any person of rights granted by state or federal laws, because the interim zoning regulation is short in duration and essential to protect the public health, safety and welfare.

SECTION 3. Interim Regulations. The following provisions are hereby adopted as interim zoning standards pertaining to the review or approval of any entitlements or the issuance of any permits or licenses pursuant to the Antioch Municipal Code for Computer Gaming and Internet Access Businesses. The approval of any entitlements or the issuance of any permit or license in the City in conflict with these provisions is expressly prohibited:

- A. **Restricted Activities. For a period of forty-five (45) days following the enactment of this Ordinance, no person shall be issued a permit, license or land use entitlement for the construction, placement, or operation of new Computer Gaming and Internet Access Businesses within the City. The City Manager or his or her designee shall review any application for a permit, license or land use entitlement to determine applicability of the provisions of this Ordinance. City Staff, City boards and City commissions are directed to refrain from issuing any application for any permits, licenses or land use entitlement, including, but not limited to, use permits, variances, building permits, licenses and certificates of occupancy, necessary for construction, placement, or operation of a Computer Gaming and Internet Access Business. These prohibitions shall remain in effect during the forty-five (45) days following enactment of this Ordinance. The two existing Computer Gaming and Internet Access Businesses may continue to operate at their current locations: Internet Room at 2962 Delta Fair Boulevard and Cot on the Web at 2333 Buchanan Road.**
- B. **Definitions.** In addition to the definitions contained in the City's Municipal Code, the following words and phrases shall, for the purposes of this Ordinance, be defined as follows, unless it is clearly apparent from the context that another meaning is intended. Should any of the definitions be in conflict with the current provisions of the Municipal Code, the following definitions shall prevail:
1. "Computer Gaming and Internet Access Business" shall mean an establishment that provides more than four (4) computers or other electronic devices for access to the world wide web, internet, e-mail, video games or computer software programs which operate alone or are networked (via LAN, WAN or otherwise) or which function as a client/server program, and which seeks compensation, in any form, from

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users. Computer Gaming and Internet Access Business is synonymous with a personal computer ("PC") café, internet café, cyber café, sweepstakes gaming facilities, business center, internet sales business and internet center, but does not include a Public Use or Internet Learning Center as defined herein.

2. "Public Use or Internet Learning Center" shall mean an establishment that provides computer access which is operated by the City of Antioch, a school district, a library, a college district, or a private institution of learning which provides classes in computer instruction or a non-profit organization which does not receive compensation in any form other than school tuition.

SECTION 4. CEQA. This ordinance is not a project within the meaning of Section 15378 of the State CEQA (California Environmental Quality Act) Guidelines, because it has no potential for resulting in physical change in the environment, directly or ultimately. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guideline section 16061 (b) (3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

SECTION 5. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 6. Effective Date. This interim ordinance shall take effect immediately upon its adoption and shall continue in effect for forty-five (45) days from the date of its adoption by not less than a four-fifth's vote of the Antioch City Council, and shall thereafter be of no further force and effect, unless, after notice pursuant to Government Code Section 65090 and public hearing, the Antioch City Council extends this Ordinance, and the interim zoning regulations adopted thereby, pursuant to Government Code Section 65858.

SECTION 7. Report of Council. Ten days prior to the expiration of this Ordinance, or any extension thereof, this Council shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of this ordinance, or any extension thereof.

SECTION 8. Declaration of Urgency. This ordinance is hereby declared to be an urgency measure necessary for the immediate protection of the public health, safety and welfare. This Council hereby finds that there is a current and immediate threat to

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the public health, safety and welfare. The reasons for this urgency are declared and set forth in Section 2 of this Ordinance and are incorporated herein by reference.

SECTION 9. Publication; Certification. The City Clerk shall certify to the adoption of this Ordinance and cause same to be published in accordance with State law.

* * * * *

I HEREBY CERTIFY that the foregoing Ordinance was introduced and adopted as an urgency ordinance pursuant to the terms of California Government Code Section 65858 at a regular meeting of the City Council of the City of Antioch on the 28th day of February, 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

James D. Davis, Mayor of the City of Antioch

ATTEST:

Denise Skaggs, City Clerk of the City of Antioch

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~~ABZ~~ At

ATTACHMENT "B"

ORDINANCE NO.

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH AMENDING TITLE 5 OF THE ANTIOCH MUNICIPAL CODE BY ADDING A NEW CHAPTER 11 PERTAINING TO THE LICENSING PROCEDURES AND REGULATIONS FOR COMPUTER GAMING AND INTERNET ACCESS BUSINESSES AND MAKING FINDINGS DECLARING THE URGENCY THEREOF

The City Council of the City of Antioch does ordain as follows:

SECTION 1. The City Council finds as follows:

A. The City Council of the City of Antioch is concerned with the increasing reports of violent criminal behavior and related detrimental neighborhood effects associated with Computer Gaming and Internet Access Businesses.

B. The City of Antioch, as well as neighboring cities, have experienced criminal activity associated with Computer Gaming and Internet Access Businesses, including incidents involving robbery, illegal drug use and sales, burglary, assaults, public intoxication, vandalism and property damage and loitering. It is also known that other cities have experienced significant gang-related activities and prostitution occurring at these Computer Gaming and Internet Access Businesses. For example, the Antioch Police Department has documented a significant increase in service related calls involving a variety of crimes in these businesses and within the neighborhoods adjacent to Computer Gaming and Internet Access Businesses and include the representational incidents below as findings as follows:

1. On April 13, 2010, there was a call for service from T's Internet Café at 1836 A Street because of a fight over someone owing someone money and on July 23, 2010 a call for service regarding another fight.
2. At T's Internet Café at 1653 A Street on September 11, 2010, there was a call for service regarding possible assault, drug violations and carjacking. On November 18, 2010, a male robbed money from the business with a sawed-off shot gun and shot at one of the workers. On February 2, 2011, there was a call for service regarding drug selling. On July 21, 2011, there was a report of a car theft and then a fight broke out.
3. At the Internet Room at 2962 Delta Fair Boulevard, on January 28, 2012, there was a report of a stolen vehicle.
4. At T's Internet Café at 1908 A Street on August 20, 2011, someone was throwing things at the business and threatening to harm the employees.
5. While at Computer Gaming and Internet Access Businesses in Antioch, individuals have been arrested for robbery, narcotics violations, carjacking

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and other crimes, as well as on outstanding warrants. While some of these crimes may have occurred elsewhere, it does show a propensity for individuals who engage in criminal activity to patronize Computer Gaming and Internet Access Businesses.

6. At 2962 Delta Fair Boulevard, calls for service have increased at that location and at neighboring businesses as much as 450% since the Internet Room started operating.
7. At 1836 A Street, before T's Internet Café opened there were 157 calls for service from that location and neighboring businesses over a 7-month period from February 1, 2009 through August 30, 2009. While T's Internet Café was operating at 1836 A Street, calls for service increased to 240 (a 52% increase) over a 7-month period from February 1, 2010 through August 30, 2010. When T's Internet Café closed at that location, calls for service from that location and neighboring businesses went back down to 158 calls for service over the 7-month period from February 1, 2011 through August 30, 2011, almost identical to the rates before T's Internet Café opened.

C. Computer Gaming and Internet Access Businesses often have local school students and minors as their target market, and thereby may encourage the assembly of significant numbers of minors without supervision by parents or guardians. Further, given concerns about attendance at the Antioch Unified School District such congregation of students should not be allowed during regular school hours.

D. The City Council of the City of Antioch finds that the activities of Computer Gaming and Internet Access Businesses have become frequently associated with detrimental impacts to the surrounding area.

E. The Antioch Municipal Code does not currently provide adequate standards and regulations concerning the review, approval and operation of Computer Gaming and Internet Access Businesses. Section 9-5.3816 pertaining to Mechanical or Electronic Games is at least 30 years old and does not specifically address regulations pertinent to Computer Gaming and Internet Access Businesses.

F. The City Council finds, determines and declares that the current threat to the public health, safety and welfare of the City and its citizens necessitates the immediate enactment of this Ordinance to help deter and prevent crimes and criminal activity from occurring at and around Computer Gaming and Internet Access Businesses.

G. The City Council further finds that this Ordinance constitutes a matter of Citywide importance and is not directed towards nor targeted at any particular parcel of property, any particular business or any proposed occupant.

SECTION 2. Title 5 of the Antioch Municipal Code is hereby amended by the addition of a new Chapter 11, to read as follows:

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"Chapter 11"

COMPUTER GAMING AND INTERNET ACCESS BUSINESSES

Sections:

<u>5-11.01</u>	Purpose.
<u>5-11.02</u>	Definitions.
<u>5-11.10</u>	Computer Gaming and Internet Access Business - License required.
<u>5-11.11</u>	Term of license.
<u>5-11.12</u>	Renewal of license.
<u>5-11.20</u>	License application and issuance.
<u>5-11.30</u>	Transfer of license.
<u>5-11.40</u>	Alterations to Computer Gaming and Internet Access Business.
<u>5-11.50</u>	License revocation.
<u>5-11.60</u>	Operational standards and regulations.
<u>5-11.70</u>	Abatement of nuisance.
<u>5-11.80</u>	Penalty.
<u>5-11.90</u>	License fees.

§ 5-11.01 Purpose.

It is the purpose and intent of this chapter to regulate Computer Gaming and Internet Access Businesses to promote the protection of the public from the dangers of fire and hazards to health, to ensure the full protection of minors, and for the general preservation of the peace and welfare of the community. It is the intent of the City to establish minimally intrusive protocols to provide reasonable accountability for computer gaming and internet access and use at Computer Gaming and Internet Access Businesses. The City finds such accountability to be reasonably necessary to minimize the risk of use of the computer and/or internet by persons at Computer Gaming and Internet Access Businesses for criminal purposes and to increase the opportunities for the safe apprehension of such persons patronizing Computer Gaming and Internet Businesses for criminal purposes, while recognizing rights of individuals to use the internet and Computer Gaming and Internet Access Businesses for legitimate purposes.

§ 5-11.02 Definitions.

A. "Computer Gaming and Internet Access Business" shall mean an establishment that provides more than four (4) computers or other electronic devices for access to the world wide web, internet, e-mail, video games or computer software programs which operate alone or are networked (via LAN, WAN or otherwise) or which function as a client/server program, and which seeks compensation, in any form, from users. Computer Gaming and Internet Access Business is synonymous with a personal computer ("PC") café, internet café,

cyber café, sweepstakes gaming facilities, business center, internet sales business and internet center, but does not include a Public Use or Internet Learning Center as defined herein.

B. "Public Use or Internet Learning Business" shall mean an establishment that provides computer access which is operated by the City of Antioch, a school district, a library, a college district, or a private institution of learning which provides classes in computer instruction or a non-profit organization which does not receive compensation in any form other than school tuition.

§ 5-11.10 Computer Gaming and Internet Access Businesses - License required.

It is unlawful for any person to engage in, conduct or carry on, in or upon any premises or real property located within the City, the activities of an Computer Gaming and Internet Access Business, unless such person has been granted a valid license pursuant to the provisions of this chapter. A separate license shall be required for each location within the City where a Computer Gaming and Internet Access Business is to be established. Public Use or Internet Learning Business shall be exempt from the license requirements herein.

§ 5-11.11 Term of license.

The term of a Computer Gaming and Internet Access Business license, unless sooner suspended or revoked, shall be one year.

§ 5-11.12 Renewal of license.

A Computer Gaming and Internet Access Business license, issued pursuant to the provisions of this chapter, that has not been suspended or revoked, may be renewed, upon payment of the renewal application fee, for a period not to exceed one year upon written application to the Community Development Director made at least sixty (60) days prior to the expiration date of the current valid license. This application for renewal of a license shall contain all of the information required by Section § 5-11.120 of this chapter and shall be processed in accordance with the provisions of this chapter.

§ 5-11.20 License application and issuance.

A. Any person desiring to obtain a license or to renew an existing license to operate a Computer Gaming and Internet Access Business shall file a written application with the Community Development Director. The application shall be signed under the penalty of perjury. Prior to submitting the application, a nonrefundable fee, in an amount established by resolution of the City Council, shall be paid to the City to defray the cost of the investigation and issuance

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required by this chapter. The license issuance or renewal fee required under this chapter shall be in addition to any other license or fee required under this code.

B. Neither the filing of an application for a license or renewal thereof nor payment of an application or renewal fee shall authorize the operation of a Computer Gaming and Internet Access Business until such license has been granted or renewed.

C. Each applicant for a Computer Gaming and Internet Access Business license or renewal thereof shall furnish the following information:

1. The present or proposed address where the business is to be conducted;
2. The full and true name under which the business will be conducted;
3. The full and true name and any other names used by the applicant and owner of the business, if the owner is not the applicant;
4. The applicant and owner's present residential and business addresses and telephone numbers;
5. Each residential and business address of the applicant and the owner for the five-year period immediately preceding the date of filing the application and the inclusive dates of each address;
6. The California driver's license or identification number of the applicant and owner;
7. A precise description of the activities and/or services to be provided;
8. A detailed site and floor plan of the proposed business, depicting the building and unit proposed and including interior dimensions and off-street parking spaces required by the City's zoning code;
9. A detailed description of the food and beverage service, if any, that will be offered to patrons;
10. The dates and hours during which the Computer Gaming and Internet Access Business is desired to be conducted and a list of the fees to be charged patrons;

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11. The name(s) of the person(s) responsible for the operation, management, and supervision of the Computer Gaming and Internet Access Business;

12. A statement as to whether the applicant, owner, or any person to be responsible for the operation, management, and supervision of the Computer Gaming and Internet Access Business has, within the past five (5) years, had any permit or license issued in conjunction with a Computer Gaming and Internet Access Business in any jurisdiction, and whether during that period the license was suspended or revoked. If so, then the application shall provide the name of the issuing agency and an explanation of the suspension or revocation;

13. Signature of the property owner indicating approval of the submission of the license application; and

14. Such other information as the Community Development Director may require to discover the truth of the matters required to be set forth in the application.

D. The applicant shall present proof to the Community Development Director that the required application or application renewal fee has been paid, and shall present the application containing the information and supporting documentation required by subsection C of this section. A copy of the application shall be distributed to the City's Planning and Building Divisions, the Police Department and the Fire District for review.

E. When any change occurs regarding the written information required by subsection C of this section to be included in the application, the applicant or license holder, as the case may be, shall give written notification of such change to the Community Development Director within five (5) business days of such change.

F. The Community Development Director shall have a reasonable time, not to exceed thirty (30) days to investigate the facts set forth in the application and to receive comments from the City's Planning and Building Departments, the Police Department and the Fire District. The Community Development Director shall, within sixty (60) days after the date of the filing of the application, grant the license or renewal thereof only if it is found that all of the following requirements have been met:

1. The required fees have been paid;
2. The application and all information contained therein conform in all respects to the provisions of this chapter;
3. The applicant has not knowingly made a material misrepresentation of fact in the application;

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4. The proposed Computer Gaming and Internet Access Business would comply with this chapter and all other applicable city, county and state laws including, but not limited to, health, zoning, fire and safety requirements and standards, and that, as proposed, the Computer Gaming and Internet Access Business would not tend to generate criminal activities, present unnecessary criminal opportunities, or tend to cause violations of curfews by minors due to failure to comply with Federal or State law or the Municipal Code including but not limited to Operational Standards set forth below ;

5. The applicant is at least eighteen (18) years of age;

6. The Computer Gaming and Internet Access Business site and floor plan have been reviewed by the City's Planning and Building Departments and the Police Department and Fire District, which have approved the same as well as all fire and panic safety equipment required to be installed; all requirements of the Americans with Disabilities Act have been satisfied; and that the maximum occupancy has been established, will be posted and will not likely be exceeded based on the floor plan; and,

7. The Community Development Director has not received evidence that the applicant has, within the previous five (5) years, had any license or entitlement to operate a Computer Gaming and Internet Access Business revoked due to the applicant's commission of a crime or violation of the operational standards or conditions of approval applicable to a Computer Gaming and Internet Access Business; provided, however, a Computer Gaming and Internet Access Business license may be granted subject to additional conditions designed to preclude a recurrence of the events or activities causing the prior license revocation.

G. If the Community Development Director does not find that all of the requirements of subsection F of this section have been met, the application shall be denied.

1. In the event that an application for a license or renewal thereof is denied, written notice of the denial shall be given to the applicant within sixty (60) days after the date of the filing of the application specifying the ground(s) of the denial and a description of the hearing rights provided by Section § 5-11.20(G)()2, below. Notice of denial of the application may be personally served or served by first-class postage prepaid and addressed to the applicant at the address set forth in the application. Mailed notice shall be deemed received three (3) days after mailing.

2. The decision of the Community Development Director may be appealed by filing a written notice requesting a hearing within ten (10) calendar days of the decision of the Community Development Director. The appeal may be heard by a Hearing Officer (for purposes of this section, the term Hearing

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Officer shall mean the City Manager or a Hearing Officer appointed by the City Manager) or by the Board of Administrative Appeals, pursuant to Chapter 4 of Title 1 of the Municipal Code.

a. The hearing shall be conducted within forty-five (45) days of the request.

b. The hearing shall be conducted under such rules of procedure as are appropriate to quasi-judicial proceedings, provided that the applicant and the City shall be entitled to present relevant evidence, testify under oath, and call witnesses who shall testify under oath. The Hearing Officer/Board of Administrative Appeals shall not be bound by the statutory rules of evidence in the hearing. The applicant shall have the burden of proof that the Community Development Director's determination was wrong. The hearing shall be recorded so that a transcript of the hearing can be prepared by either party.

c. At the conclusion of the hearing, the Hearing Officer/Board of Administrative Appeals shall decide whether the grounds for denial, revocation or non-renewal exist. Within ten (10) days after the conclusion of the hearing, the Hearing Officer/Board of Administrative Appeals shall file with the City Clerk, together with the recording of the hearing, a written decision supported by written findings based on the evidence submitted and a statement of the order. A copy of the decision shall be forwarded by certified mail, postage prepaid, to the applicant by the City Clerk. The decision of the Hearing Officer/Board of Administrative Appeals shall become effective three (3) days after its mailing to the applicant unless timely appealed as provided in the following Section.

H. The decision of the Hearing Officer or Board of Administrative Appeals shall be final unless appealed to the City Council by the filing of a written appeal with the City Clerk by the City Manager or member of the Council within ten (10) calendar days of mailing of the decision. All such appeals shall be filed with the City Clerk and shall be public records. The City Council shall, at a duly noticed meeting within forty-five (45) days from the date the written appeal was filed, independently review the entire record, including the recording or transcript of the hearing and any oral or written arguments which may be offered to the City Council by the appellant. At the conclusion of the review, a majority of the City Council members present may decide to sustain the decision, modify the decision, or order the decision stricken and issue such order as the City Council finds is supported by the entire record. The lack of a majority to take action means that the decision of the Hearing Officer or Board of Administrative Appeals remains in effect. The action of the City Council shall be final and conclusive, shall be rendered in writing within ten days, and shall be immediately mailed or delivered to the applicant.

I. Notwithstanding any provisions in this chapter regarding the occurrence of any action within a specified period of time, the applicant may

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request additional time beyond that provided or may request a continuance regarding any decision or consideration by the City of the pending appeal. Extensions of time sought by applicants shall not be considered delay on the part of the City or constitute failure by the City to provide for prompt decisions on applications.

J. The time for a court challenge to a decision under this section is governed by California Code of Civil Procedure § 1094.8 and notice of the City's decision and its findings shall include citation to California Code of Civil Procedure § 1094.8.

§ 5-11.30 Transfer of license.

Unless prior application is made, thereafter approved, and a license issued thereon, upon the sale or transfer of any interest in a Computer Gaming and Internet Access Business, the license shall immediately become null and void. A new application must be made and a new fee paid by any person desiring to own or operate the Computer Gaming and Internet Access Business. Any application involving the sale or transfer of any interest in an existing Computer Gaming and Internet Access Business, as well as any license which may thereafter be granted, shall be subject to the provisions of this chapter.

§ 5-11.40 Alterations to Computer Gaming and Internet Access Businesses.

A. A holder of a valid Computer Gaming and Internet Access Business license shall notify the Community Development Director, in writing, of any proposed change in the business location, floor plan or business name at least thirty (30) days prior to such change.

B. Nothing in this section shall excuse the owner of a Computer Gaming and Internet Access Business from obtaining all other approvals necessary to change a location, floor plan or business name, including but not limited to building permits.

§ 5-11.50 License revocation.

A. If the City finds that any person holding an Computer Gaming and Internet Access Business license has violated or allowed the violation of any of the provisions of this chapter or has conducted business in a manner that could have been grounds for license denial, the license may be revoked following notice and a hearing.

B. No revocation shall become effective until the license holder has been notified in writing of the right to a hearing pursuant to the provisions of section § 5-11.20(G) of this chapter. Notice of the pending revocation and right

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to appeal shall be given to the license holder either by personal delivery or registered mail, addressed to the license holder at the address set forth in the license application. Mailed notice shall be deemed received three (3) days after mailing.

C. If a request for hearing is filed within ten (10) calendar days from the notice provided in B above, the City shall conduct an appeal hearing as provided in section § 5-11.20(G) H, I and J, above. The revocation shall be stayed pending the decision, unless, in the determination of the City Manager, immediate suspension pending the hearing is necessary due to an immediate threat to the public health, safety or welfare. Otherwise, the revocation shall become effective upon expiration of the appeal period.

§ 5-11.60 Operational standards and regulations.

A. Prohibitions regarding Minors.

1. Minors (under 18 years of age), unless legally emancipated, shall not be permitted to enter or remain in a Computer Gaming and Internet Access Business during any time that he or she is required to be in attendance at school unless accompanied by a parent or legal guardian.
2. Minors (under 18 years of age), unless legally emancipated, shall not be permitted to enter or remain in a Computer Gaming and Internet Access Business during the hours of the Juvenile Protection Curfew of 11:01 p.m. through 5:00 a.m. seven nights a week, pursuant to Article 2 of Chapter 10 of Title 5 of the Antioch Municipal Code.
3. Signs shall be placed at the entrance of the business and inside the business setting forth these restrictions in lettering of at least two (2) inches in size.

B. Hours of Operation. The Computer Gaming and Internet Access Business shall not be open to customers, patrons or any member of the public between the hours of 12:00 a.m. and 8:00 a.m. on Friday, Saturday and Sunday or between the hours of 11:00 p.m. and 8:00 a.m. Monday through Thursday.

C. Interior Waiting Area. An interior waiting area with not less than eight (8) seats shall be provided for customers waiting to use a computer. The number of seats shall be increased by one (1) for every five (5) additional computers beyond twenty-five (25) computers in the business. No outside waiting or seating area is permitted.

D. No Smoking or Consumption of Alcoholic Beverages. No person shall be permitted to smoke or consume alcoholic beverages on the inside of the

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premises. The sale of cigarettes and alcohol on the premises is prohibited. No intoxicated or disorderly person shall be allowed to remain on the premises.

E. Staffing. Employees shall be at least 18 years of age. There shall be a minimum of two (2) employees staffing the Computer Gaming and Internet Access Business during all working hours with at least one manager or supervisor. The ratio of employees to computers and/or other electronic devices that access the internet shall be 2:15. During each employee's working hours, the employee shall wear a badge identifying the business and the employee's full name. Security personnel indicated in Section I below shall not be included in this minimum staffing number

F. Occupancy. Occupancy shall not exceed that required under the Uniform Building Code and Uniform Fire Code. The maximum occupancy load shall be posted at the main entrance.

G. Surveillance System.

1. The Chief of Police may require a Computer Gaming and Internet Access Business operator to install a digital camera/video surveillance system on the premises in the event there are or have been repeated calls for police services relating to the premises including, but not limited to, assaults, public intoxication, vandalism, gang activity, weapons offenses, disturbances of the peace and juvenile crimes including truancy.

2. In the event of such a determination, the establishment shall maintain and operate a camera/video surveillance system during all business hours. The system shall cover the entire interior of the premises and all entrances to and exits from the establishment. Tapes/disks shall be kept a minimum of fourteen (14) calendar days, or as required by the Chief of Police. The owner shall permit a representative of the Police Department's office to inspect the tapes/disks during business hours.

3. A sign shall be posted inside and at the entrances to the establishment indicating that the premises are under camera/video surveillance.

H. Window Coverings. Window areas shall not be covered, tinted or made opaque in any way, or obscured in any way by landscaping, floor displays, equipment or the like, excepting during daylight hours when partial blinds or other equivalent window coverings may be used as long as the interior remains visible from the public right of way.

I. Security Guards.

1. The Chief of Police may require a specific Computer Gaming and Internet Access Business operator to provide a security guard(s) on the premises

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in the event there are repeated calls for police services relating to the premises including, but not limited to, assaults, gang activity, weapons offenses, disturbances of the peace and juvenile crimes including truancy.

2. The security guard shall be uniformed and be employed by a Private Patrol Operator that is currently licensed with the California Department of Consumer Affairs. The name of the Patrol Operator with state license number and the guard registration numbers shall be provided to the Community Development Department. Any changes to the Patrol Operator shall be approved by the Police Chief at least two working days prior to Patrol Operator taking over security at the business.

3. The security guard shall also patrol the exterior of the business and any parking lot areas.

4. The Chief of Police may require more than one security guard if there are more than fifteen (15) computers or similar devices or continued repeated calls for service indicate that one security guard is not adequate.

J. No Adult Entertainment Business or Adult Boutique. Any access to adult entertainment oriented web sites, as defined in section 9-5.203 of this code, is prohibited unless specifically permitted under sections 9-5.3808 or 9-5.3808.1 of this code.

K. No Other Amusement Devices. No pool tables or other amusement devices not directly related to the internet and similar computer devices shall be permitted in the business.

L. No Tournaments. No gaming tournaments for cash prizes deemed to be gambling under the provisions of State Law shall be permitted.

M. Interior Signs. User rates and other fees must be conspicuously posted on the premises.

N. No Illegal Gambling. Under no circumstances shall electronic game machines, which include computers and other amusement devices, be used for illegal gaming or gambling. The applicant shall be responsible for ensuring customers do not use any electronic game machine for illegal gaming or gambling.

O. No Litter. The applicant shall provide adequate trash receptacles both inside and outside of the building. The applicant shall keep the outside of the business, including the parking lot, free of litter, trash and debris.

P. No Private Booths. Any booth or individual computer use area within the business shall be visible from a continuous and accessible main aisle

in a public portion of the Computer Gaming and Internet Access Business, and shall not be obscured by any door, curtain, wall, two-way mirror or other device which would prohibit a person from seeing the entire interior of the booth/individual viewing area from the main aisle. Further, no one shall maintain any booth/individual viewing area in any configuration unless the entire interior wherein the computer that is being used is visible from one main aisle. No doors are permitted on a booth/individual viewing area. No partially or fully enclosed booth/individual viewing areas or partially or fully concealed booth/individual viewing areas shall be maintained.

Q. Alarm System. The Chief of Police may require a specific Computer Gaming and Internet Access Business operator to install an alarm system that distinguishes between a burglary and a robbery. The system shall monitor twenty-four hours per day. All public entrance and exit doors to the business shall have electronic monitoring system that produce a sound when a person transverses the doorway. If required by the Chief of Police, the system shall be electronically connected with the Police Department if activated.

R. Number of Computers. The number of computers or similar devices in a Computer Gaming and Internet Access Business shall not exceed thirty square feet of floor area per computer of the floor area that is dedicated to the placement of computers for rent or charge.

§ 5-11.70 Abatement of nuisance.

Any Computer Gaming and Internet Access Business operated, conducted or maintained contrary to the provisions of this chapter shall be and hereby is declared to be unlawful and a public nuisance, and the City may, in addition to or in lieu of any other remedy, commence an action or proceeding for the abatement, removal or enjoyment thereof, and may take such other steps and may apply to such court or courts as may have jurisdiction to grant such relief to abate or remove such establishment and restrain and enjoin any person from operating, conducting or maintaining a Computer Gaming and Internet Access Business contrary to the provisions of this chapter.

§ 5-11.90 Penalty.

It shall be unlawful for any person to violate any provision or to fail to comply with any of the requirements of this chapter. Any person violating, permitting or causing the violation of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as set forth in chapter 1-2.01 of this code, or any successor provision thereto. Each person shall be deemed guilty of a separate offense for each and every day, or any portion thereof, during which any violation of any provision of this chapter is committed, continued or permitted by such person and shall be deemed punishable therefore as provided in this section.

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§ 5-11.90 License fees.

The City Council shall, by resolution, set a fee for application for a Computer Gaming and Internet Access Business license. Until such fee is set, the application fee shall be the minimum fee currently established for the application extension fee in the City's Master Fee Schedule."

SECTION 3. Compliance for Existing Business; Time. It is the desire and intent of the City Council that any and all existing and legal Computer Gaming and Internet Access Businesses come into compliance with the terms of this Ordinance as rapidly as possible and that all applications, review and decisions be processed on an expedited basis. Within fourteen (14) calendar days of the effective date of this ordinance, every existing Computer Gaming and Internet Access Business shall file a statement with the Community Development Director evidencing its compliance with all provisions of this chapter and providing all information as provided in § 5-11.40. The review and determination of the Community Development Director shall be provided within fourteen (14) days of the filing of the application. In the event that the license requires the installation of improvements at the business (e.g., lighting, surveillance, etc) all such improvements shall be installed per a schedule agreed to by the Community Development Director; however, not to exceed twenty-one (21) days following the determination of the Community Development Director on the license application.

SECTION 4. CEQA. This ordinance is not a project within the meaning of Section 15378 of the State CEQA (California Environmental Quality Act) Guidelines, because it has no potential for resulting in physical change in the environment, directly or ultimately. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guideline section 16061 (b) (3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

SECTION 5. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 6. Effective Date. This Ordinance is hereby declared an urgency measure pursuant to the terms of California Government Code section 36937 (b) and shall be effective immediately upon adoption by a four-fifths (4/5th) vote of the City Council.

SECTION 7. Publication; Certification. The City Clerk shall certify to the adoption of this Ordinance and cause same to be published in accordance with State law.

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* * * * *

I HEREBY CERTIFY that the foregoing Ordinance was introduced and adopted as an urgency ordinance pursuant to the terms of California Government Code Section 36937 (b) at a regular meeting of the City Council of the City of City of Antioch on the 28th day of February, 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

James D. Davis, Mayor of the City of Antioch

ATTEST:

Denise Skaggs, City Clerk of the City of Antioch

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ATTACHMENT "C"

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH AMENDING TITLE 5 OF THE ANTIOCH MUNICIPAL CODE BY ADDING A NEW CHAPTER 11 PERTAINING TO THE LICENSING PROCEDURES AND REGULATIONS FOR COMPUTER GAMING AND INTERNET ACCESS BUSINESSES

The City Council of the City of Antioch does ordain as follows:

SECTION 1. The City Council finds as follows:

A. The City Council of the City of Antioch is concerned with the increasing reports of violent criminal behavior and related detrimental neighborhood effects associated with Computer Gaming and Internet Access Businesses.

B. The City of Antioch, as well as neighboring cities, have experienced criminal activity associated with Computer Gaming and Internet Access Businesses, including incidents involving robbery, illegal drug use and sales, burglary, assaults, public intoxication, vandalism and property damage and loitering. It is also known that other cities have experienced significant gang-related activities and prostitution occurring at these Computer Gaming and Internet Access Businesses. For example, the Antioch Police Department has documented a significant increase in service related calls involving a variety of crimes in these businesses and within the neighborhoods adjacent to Computer Gaming and Internet Access Businesses and include the representational incidents below as findings as follows:

1. On April 13, 2010, there was a call for service from T's Internet Café at 1836 A Street because of a fight over someone owing someone money and on July 23, 2010 a call for service regarding another fight.
2. At T's Internet Café at 1653 A Street on September 11, 2010, there was a call for service regarding possible assault, drug violations and carjacking. On November 18, 2010, a male robbed money from the business with a sawed-off shot gun and shot at one of the workers. On February 2, 2011, there was a call for service regarding drug selling. On July 21, 2011, there was a report of a car theft and then a fight broke out.
3. At the Internet Room at 2962 Delta Fair Boulevard, on January 28, 2012, there was a report of a stolen vehicle.
4. At T's Internet Café at 1908 A Street on August 20, 2011, someone was throwing things at the business and threatening to harm the employees.
5. While at Computer Gaming and Internet Access Businesses in Antioch, individuals have been arrested for robbery, narcotics violations, carjacking and other crimes, as well as on outstanding warrants. While some of

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these crimes may have occurred elsewhere, it does show a propensity for individuals who engage in criminal activity to patronize Computer Gaming and Internet Access Businesses.

6. At 2962 Delta Fair Boulevard, calls for service have increased at that location and at neighboring businesses as much as 450% since the Internet Room started operating.
7. At 1836 A Street, before T's Internet Café opened there were 157 calls for service from that location and neighboring businesses over a 7-month period from February 1, 2009 through August 30, 2009. While T's Internet Café was operating at 1836 A Street, calls for service increased to 240 (a 52% increase) over a 7-month period from February 1, 2010 through August 30, 2010. When T's Internet Café closed at that location, calls for service from that location and neighboring businesses went back down to 158 calls for service over the 7-month period from February 1, 2011 through August 30, 2011, almost identical to the rates before T's Internet Café opened.

C. Computer Gaming and Internet Access Businesses often have local school students and minors as their target market, and thereby may encourage the assembly of significant numbers of minors without supervision by parents or guardians. Further, given concerns about attendance at the Antioch Unified School District such congregation of students should not be allowed during regular school hours.

D. The City Council of the City of Antioch finds that the activities of Computer Gaming and Internet Access Businesses have become frequently associated with detrimental impacts to the surrounding area.

E. The Antioch Municipal Code does not currently provide adequate standards and regulations concerning the review, approval and operation of Computer Gaming and Internet Access Businesses. Section 9-5.3816 pertaining to Mechanical or Electronic Games is at least 30 years old and does not specifically address regulations pertinent to Computer Gaming and Internet Access Businesses.

F. The City Council further finds that this Ordinance constitutes a matter of City-wide importance and is not directed towards nor targeted at any particular parcel of property, any particular business or any proposed occupant.

SECTION 2. Title 5 of the Antioch Municipal Code is hereby amended by the addition of a new Chapter 11, to read as follows:

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"Chapter 11"

COMPUTER GAMING AND INTERNET ACCESS BUSINESSES

Sections:

<u>5-11.01</u>	Purpose.
<u>5-11.02</u>	Definitions.
<u>5-11.10</u>	Computer Gaming and Internet Access Business - License required.
<u>5-11.11</u>	Term of license.
<u>5-11.12</u>	Renewal of license.
<u>5-11.20</u>	License application and issuance.
<u>5-11.30</u>	Transfer of license.
<u>5-11.40</u>	Alterations to Computer Gaming and Internet Access Business.
<u>5-11.50</u>	License revocation.
<u>5-11.60</u>	Operational standards and regulations.
<u>5-11.70</u>	Abatement of nuisance.
<u>5-11.80</u>	Penalty.
<u>5-11.90</u>	License fees.

§ 5-11.01 Purpose.

It is the purpose and intent of this chapter to regulate Computer Gaming and Internet Access Businesses to promote the protection of the public from the dangers of fire and hazards to health, to ensure the full protection of minors, and for the general preservation of the peace and welfare of the community. It is the intent of the City to establish minimally intrusive protocols to provide reasonable accountability for computer gaming and internet access and use at Computer Gaming and Internet Access Businesses. The City finds such accountability to be reasonably necessary to minimize the risk of use of the computer and/or internet by persons at Computer Gaming and Internet Access Businesses for criminal purposes and to increase the opportunities for the safe apprehension of such persons patronizing Computer Gaming and Internet Businesses for criminal purposes, while recognizing rights of individuals to use the internet and Computer Gaming and Internet Access Businesses for legitimate purposes.

§ 5-11.02 Definitions.

A. "Computer Gaming and Internet Access Business" shall mean an establishment that provides more than four (4) computers or other electronic devices for access to the world wide web, internet, e-mail, video games or computer software programs which operate alone or are networked (via LAN, WAN or otherwise) or which function as a client/server program, and which seeks compensation, in any form, from users. Computer Gaming and Internet Access

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Business is synonymous with a personal computer ("PC") café, internet café, cyber café, sweepstakes gaming facilities, business center, internet sales business and internet center, but does not include a Public Use or Internet Learning Center as defined herein.

B. "Public Use or Internet Learning Business" shall mean an establishment that provides computer access which is operated by the City of Antioch, a school district, a library, a college district, or a private institution of learning which provides classes in computer instruction or a non-profit organization which does not receive compensation in any form other than school tuition.

§ 5-11.10 Computer Gaming and Internet Access Businesses - License required.

It is unlawful for any person to engage in, conduct or carry on, in or upon any premises or real property located within the City, the activities of an Computer Gaming and Internet Access Business, unless such person has been granted a valid license pursuant to the provisions of this chapter. A separate license shall be required for each location within the City where a Computer Gaming and Internet Access Business is to be established. Public Use or Internet Learning Business shall be exempt from the license requirements herein.

§ 5-11.11 Term of license.

The term of a Computer Gaming and Internet Access Business license, unless sooner suspended or revoked, shall be one year.

§ 5-11.12 Renewal of license.

A Computer Gaming and Internet Access Business license, issued pursuant to the provisions of this chapter, that has not been suspended or revoked, may be renewed, upon payment of the renewal application fee, for a period not to exceed one year upon written application to the community development director made at least sixty (60) days prior to the expiration date of the current valid license. This application for renewal of a license shall contain all of the information required by Section § 5-11.120 of this chapter and shall be processed in accordance with the provisions of this chapter.

§ 5-11.20 License application and issuance.

A. Any person desiring to obtain a license or to renew an existing license to operate a Computer Gaming and Internet Access Business shall file a written application with the Community Development Director. The application shall be signed under the penalty of perjury. Prior to submitting the application, a nonrefundable fee, in an amount established by resolution of the City Council,

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shall be paid to the City to defray the cost of the investigation and issuance required by this chapter. The license issuance or renewal fee required under this chapter shall be in addition to any other license or fee required under this code.

B. Neither the filing of an application for a license or renewal thereof nor payment of an application or renewal fee shall authorize the operation of a Computer Gaming and Internet Access Business until such license has been granted or renewed.

C. Each applicant for a Computer Gaming and Internet Access Business license or renewal thereof shall furnish the following information:

1. The present or proposed address where the business is to be conducted;
2. The full and true name under which the business will be conducted;
3. The full and true name and any other names used by the applicant and owner of the business, if the owner is not the applicant;
4. The applicant and owner's present residential and business addresses and telephone numbers;
5. Each residential and business address of the applicant and the owner for the five-year period immediately preceding the date of filing the application and the inclusive dates of each address;
6. The California driver's license or identification number of the applicant and owner;
7. A precise description of the activities and/or services to be provided;
8. A detailed site and floor plan of the proposed business, depicting the building and unit proposed and including interior dimensions and off-street parking spaces required by the city's zoning code;
9. A detailed description of the food and beverage service, if any, that will be offered to patrons;
10. The dates and hours during which the Computer Gaming and Internet Access Business is desired to be conducted and a list of the fees to be charged patrons;

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11. The name(s) of the person(s) responsible for the operation, management, and supervision of the Computer Gaming and Internet Access Business;

12. A statement as to whether the applicant, owner, or any person to be responsible for the operation, management, and supervision of the Computer Gaming and Internet Access Business has, within the past five (5) years, had any permit or license issued in conjunction with a Computer Gaming and Internet Access Business in any jurisdiction, and whether during that period the license was suspended or revoked. If so, then the application shall provide the name of the issuing agency and an explanation of the suspension or revocation;

13. Signature of the property owner indicating approval of the submission of the license application; and

14. Such other information as the Community Development Director may require to discover the truth of the matters required to be set forth in the application.

D. The applicant shall present proof to the Community Development Director that the required application or application renewal fee has been paid, and shall present the application containing the information and supporting documentation required by subsection C of this section. A copy of the application shall be distributed to the City's Planning and Building Divisions, the Police Department and the Fire District for review.

E. When any change occurs regarding the written information required by subsection C of this section to be included in the application, the applicant or license holder, as the case may be, shall give written notification of such change to the Community Development Director within five (5) business days of such change.

F. The Community Development Director shall have a reasonable time, not to exceed thirty (30) days to investigate the facts set forth in the application and to receive comments from the City's Planning and Building Departments, the Police Department and the Fire District. The Community Development Director shall, within sixty (60) days after the date of the filing of the application, grant the license or renewal thereof only if it is found that all of the following requirements have been met:

1. The required fees have been paid;
2. The application and all information contained therein conform in all respects to the provisions of this chapter;

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3. The applicant has not knowingly made a material misrepresentation of fact in the application;

4. The proposed Computer Gaming and Internet Access Business would comply with this chapter and all other applicable city, county and state laws including, but not limited to, health, zoning, fire and safety requirements and standards, and that, as proposed, the Computer Gaming and Internet Access Business would not tend to generate criminal activities, present unnecessary criminal opportunities, or tend to cause violations of curfews by minors due to failure to comply with Federal or State law or the Municipal Code including but not limited to Operational Standards set forth below ;

5. The applicant is at least eighteen (18) years of age;

6. The Computer Gaming and Internet Access Business site and floor plan have been reviewed by the City's Planning and Building Departments and the Police Department and Fire District, which have approved the same as well as all fire and panic safety equipment required to be installed; all requirements of the Americans with Disabilities Act have been satisfied; and that the maximum occupancy has been established, will be posted and will not likely be exceeded based on the floor plan; and,

7. The Community Development Director has not received evidence that the applicant has, within the previous five (5) years, had any license or entitlement to operate a Computer Gaming and Internet Access Business revoked due to the applicant's commission of a crime or violation of the operational standards or conditions of approval applicable to a Computer Gaming and Internet Access Business; provided, however, a Computer Gaming and Internet Access Business license may be granted subject to additional conditions designed to preclude a recurrence of the events or activities causing the prior license revocation.

G. If the Community Development Director does not find that all of the requirements of subsection F of this section have been met, the application shall be denied.

1. In the event that an application for a license or renewal thereof is denied, written notice of the denial shall be given to the applicant within sixty (60) days after the date of the filing of the application specifying the ground(s) of the denial and a description of the hearing rights provided by Section § 5-11.20(G)(2), below. Notice of denial of the application may be personally served or served by first-class postage prepaid and addressed to the applicant at the address set forth in the application. Mailed notice shall be deemed received three (3) days after mailing.

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2. The decision of the Community Development Director may be appealed by filing a written notice requesting a hearing within ten (10) calendar days of the decision of the Community Development Director. The appeal may be heard by a Hearing Officer (for purposes of this section, the term Hearing Officer shall mean the City Manager or a Hearing Officer appointed by the City Manager) or by the Board of Administrative Appeals, pursuant to Chapter 4 of Title 1 of the Municipal Code.

a. The hearing shall be conducted within forty-five (45) days of the request.

b. The hearing shall be conducted under such rules of procedure as are appropriate to quasi-judicial proceedings, provided that the applicant and the City shall be entitled to present relevant evidence, testify under oath, and call witnesses who shall testify under oath. The Hearing Officer/Board of Administrative Appeals shall not be bound by the statutory rules of evidence in the hearing. The applicant shall have the burden of proof that the Community Development Director's determination was wrong. The hearing shall be recorded so that a transcript of the hearing can be prepared by either party.

c. At the conclusion of the hearing, the Hearing Officer/Board of Administrative Appeals shall decide whether the grounds for denial, revocation or non-renewal exist. Within ten (10) days after the conclusion of the hearing, the Hearing Officer/Board of Administrative Appeals shall file with the City Clerk, together with the recording of the hearing, a written decision supported by written findings based on the evidence submitted and a statement of the order. A copy of the decision shall be forwarded by certified mail, postage prepaid, to the applicant by the City Clerk. The decision of the Hearing Officer/Board of Administrative Appeals shall become effective three (3) days after its mailing to the applicant unless timely appealed as provided in the following Section.

H. The decision of the Hearing Officer or Board of Administrative Appeals shall be final unless appealed to the City Council by the filing of a written appeal with the City Clerk by the City Manager or member of the Council within ten (10) calendar days of mailing of the decision. All such appeals shall be filed with the City Clerk and shall be public records. The City Council shall, at a duly noticed meeting within forty-five (45) days from the date the written appeal was filed, independently review the entire record, including the recording or transcript of the hearing and any oral or written arguments which may be offered to the City Council by the appellant. At the conclusion of the review, a majority of the City Council members present may decide to sustain the decision, modify the decision, or order the decision stricken and issue such order as the City Council finds is supported by the entire record. The lack of a majority to take action means that the decision of the Hearing Officer or Board of Administrative Appeals remains in effect. The action of the City Council shall be final and

conclusive, shall be rendered in writing within ten days, and shall be immediately mailed or delivered to the applicant.

I. Notwithstanding any provisions in this chapter regarding the occurrence of any action within a specified period of time, the applicant may request additional time beyond that provided or may request a continuance regarding any decision or consideration by the City of the pending appeal. Extensions of time sought by applicants shall not be considered delay on the part of the City or constitute failure by the City to provide for prompt decisions on applications.

J. The time for a court challenge to a decision under this section is governed by California Code of Civil Procedure § 1094.8 and notice of the City's decision and its findings shall include citation to California Code of Civil Procedure § 1094.8.

§ 5-11.30 Transfer of license.

Unless prior application is made, thereafter approved, and a license issued thereon, upon the sale or transfer of any interest in a Computer Gaming and Internet Access Business, the license shall immediately become null and void. A new application must be made and a new fee paid by any person desiring to own or operate the Computer Gaming and Internet Access Business. Any application involving the sale or transfer of any interest in an existing Computer Gaming and Internet Access Business, as well as any license which may thereafter be granted, shall be subject to the provisions of this chapter.

§ 5-11.40 Alterations to Computer Gaming and Internet Access Businesses.

A. A holder of a valid Computer Gaming and Internet Access Business license shall notify the Community Development Director, in writing, of any proposed change in the business location, floor plan or business name at least thirty (30) days prior to such change.

B. Nothing in this section shall excuse the owner of a Computer Gaming and Internet Access Business from obtaining all other approvals necessary to change a location, floor plan or business name, including but not limited to building permits.

§ 5-11.50 License revocation.

A. If the City finds that any person holding an Computer Gaming and Internet Access Business license has violated or allowed the violation of any of the provisions of this chapter or has conducted business in a manner that could

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have been grounds for license denial, the license may be revoked following notice and a hearing.

B. No revocation shall become effective until the license holder has been notified in writing of the right to a hearing pursuant to the provisions of section § 5-11.20(G) of this chapter. Notice of the pending revocation and right to appeal shall be given to the license holder either by personal delivery or registered mail, addressed to the license holder at the address set forth in the license application. Mailed notice shall be deemed received three (3) days after mailing.

C. If a request for hearing is filed within ten (10) calendar days from the notice provided in B above, the City shall conduct an appeal hearing as provided in section § 5-11.20(G) H, I and J, above. The revocation shall be stayed pending the decision, unless, in the determination of the City Manager, immediate suspension pending the hearing is necessary due to an immediate threat to the public health, safety or welfare. Otherwise, the revocation shall become effective upon expiration of the appeal period.

§ 5-11.60 Operational standards and regulations.

A. Prohibitions regarding Minors.

1. Minors (under 18 years of age), unless legally emancipated, shall not be permitted to enter or remain in a Computer Gaming and Internet Access Business during any time that he or she is required to be in attendance at school unless accompanied by a parent or legal guardian.

2. Minors (under 18 years of age), unless legally emancipated, shall not be permitted to enter or remain in a Computer Gaming and Internet Access Business during the hours of the Juvenile Protection Curfew of 11:01 p.m. through 5:00 a.m. seven nights a week, pursuant to Article 2 of Chapter 10 of Title 5 of the Antioch Municipal Code.

3. Signs shall be placed at the entrance of the business and inside the business setting forth these restrictions in lettering of at least two (2) inches in size.

B. Hours of Operation. The Computer Gaming and Internet Access Business shall not be open to customers, patrons or any member of the public between the hours of 12:00 a.m. and 8:00 a.m. on Friday, Saturday and Sunday or between the hours of 11:00 p.m. and 8:00 a.m. Monday through Thursday.

C. Interior Waiting Area. An interior waiting area with not less than eight (8) seats shall be provided for customers waiting to use a computer. The number of seats shall be increased by one (1) for every five (5) additional

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computers beyond twenty-five (25) computers in the business. No outside waiting or seating area is permitted.

D. No Smoking or Consumption of Alcoholic Beverages. No person shall be permitted to smoke or consume alcoholic beverages on the inside of the premises. The sale of cigarettes and alcohol on the premises is prohibited. No intoxicated or disorderly person shall be allowed to remain on the premises.

E. Staffing. Employees shall be at least 18 years of age. There shall be a minimum of two (2) employees staffing the Computer Gaming and Internet Access Business during all working hours with at least one manager or supervisor. The ratio of employees to computers and/or other electronic devices that access the internet shall be 2:15. During each employee's working hours, the employee shall wear a badge identifying the business and the employee's full name. Security personnel indicated in Section below shall not be included in this minimum staffing number

F. Occupancy. Occupancy shall not exceed that required under the Uniform Building Code and Uniform Fire Code. The maximum occupancy load shall be posted at the main entrance.

G. Surveillance System.

1. The Chief of Police may require a Computer Gaming and Internet Access Business operator to install a digital camera/video surveillance system on the premises in the event there are or have been repeated calls for police services relating to the premises including, but not limited to, assaults, public intoxication, vandalism, gang activity, weapons offenses, disturbances of the peace and juvenile crimes including truancy.

2. In the event of such a determination, the establishment shall maintain and operate a camera/video surveillance system during all business hours. The system shall cover the entire interior of the premises and all entrances to and exits from the establishment. Tapes/disks shall be kept a minimum of fourteen (14) calendar days, or as required by the Chief of Police. The owner shall permit a representative of the Police Department's office to inspect the tapes/disks during business hours.

3. A sign shall be posted inside and at the entrances to the establishment indicating that the premises are under camera/video surveillance.

H. Window Coverings. Window areas shall not be covered, tinted or made opaque in any way, or obscured in any way by landscaping, floor displays, equipment or the like, excepting during daylight hours when partial blinds or other equivalent window coverings may be used as long as the interior remains visible from the public right of way.

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I. Security Guards.

1. The Chief of Police may require a specific Computer Gaming and Internet Access Business operator to provide a security guard(s) on the premises in the event there are repeated calls for police services relating to the premises including, but not limited to, assaults, gang activity, weapons offenses, disturbances of the peace and juvenile crimes including truancy.

2. The security guard shall be uniformed and be employed by a Private Patrol Operator that is currently licensed with the California Department of Consumer Affairs. The name of the Patrol Operator with state license number and the guard registration numbers shall be provided to the Community Development Department. Any changes to the Patrol Operator shall be approved by the Police Chief at least two working days prior to Patrol Operator taking over security at the business.

3. The security guard shall also patrol the exterior of the business and any parking lot areas.

4. The Chief of Police may require more than one security guard if there are more than fifteen (15) computers or similar devices or continued repeated calls for service indicate that one security guard is not adequate.

J. No Adult Entertainment Business or Adult Boutique. Any access to adult entertainment oriented web sites, as defined in section 9-5.203 of this code, is prohibited unless specifically permitted under sections 9-5.3808 or 9-5.3808.1 of this code.

K. No Other Amusement Devices. No pool tables or other amusement devices not directly related to the internet and similar computer devices shall be permitted in the business.

L. No Tournaments. No gaming tournaments for cash prizes deemed to be gambling under the provisions of State Law shall be permitted.

M. Interior Signs. User rates and other fees must be conspicuously posted on the premises.

N. No Illegal Gambling. Under no circumstances shall electronic game machines, which include computers and other amusement devices, be used for illegal gaming or gambling. The applicant shall be responsible for ensuring customers do not use any electronic game machine for illegal gaming or gambling.

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O. No Litter. The applicant shall provide adequate trash receptacles both inside and outside of the building. The applicant shall keep the outside of the business, including the parking lot, free of litter, trash and debris.

P. No Private Booths. Any booth or individual computer use area within the business shall be visible from a continuous and accessible main aisle in a public portion of the Computer Gaming and Internet Access Business, and shall not be obscured by any door, curtain, wall, two-way mirror or other device which would prohibit a person from seeing the entire interior of the booth/individual viewing area from the main aisle. Further, no one shall maintain any booth/individual viewing area in any configuration unless the entire interior wherein the computer that is being used is visible from one main aisle. No doors are permitted on a booth/individual viewing area. No partially or fully enclosed booth/individual viewing areas or partially or fully concealed booth/individual viewing areas shall be maintained.

Q. Alarm System. The Chief of Police may require a specific Computer Gaming and Internet Access Business operator to install an alarm system that distinguishes between a burglary and a robbery. The system shall monitor twenty-four hours per day. All public entrance and exit doors to the business shall have electronic monitoring system that produce a sound when a person transverses the doorway. If required by the Chief of Police, the system shall be electronically connected with the police department if activated.

R. Number of Computers. The number of computers or similar devices in a Computer Gaming and Internet Access Business shall not exceed thirty square feet of floor area per computer of the floor area that is dedicated to the placement of computers for rent or charge.

§ 5-11.70 Abatement of nuisance.

Any Computer Gaming and Internet Access Business operated, conducted or maintained contrary to the provisions of this chapter shall be and hereby is declared to be unlawful and a public nuisance, and the City may, in addition to or in lieu of any other remedy, commence an action or proceeding for the abatement, removal or enjoyment thereof, and may take such other steps and may apply to such court or courts as may have jurisdiction to grant such relief to abate or remove such establishment and restrain and enjoin any person from operating, conducting or maintaining a Computer Gaming and Internet Access Business contrary to the provisions of this chapter.

§ 5-11.90 Penalty.

It shall be unlawful for any person to violate any provision or to fail to comply with any of the requirements of this chapter. Any person violating, permitting or causing the violation of this chapter shall be deemed guilty of a

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misdemeanor and upon conviction thereof shall be punished as set forth in chapter 1-2.01 of this code, or any successor provision thereto. Each person shall be deemed guilty of a separate offense for each and every day, or any portion thereof, during which any violation of any provision of this chapter is committed, continued or permitted by such person and shall be deemed punishable therefore as provided in this section.

§ 5-11.90 License fees.

The City Council shall, by resolution, set a fee for application for a Computer Gaming and Internet Access Business license. Until such fee is set, the application fee shall be the minimum fee currently established for the application extension fee in the City's Master Fee Schedule."

SECTION 3. Compliance for Existing Business; Time. It is the desire and intent of the City Council that any and all existing and legal Computer Gaming and Internet Access Businesses come into compliance with the terms of this Ordinance as rapidly as possible and that all applications, review and decisions be processed on an expedited basis. Within fourteen (14) calendar days of the effective date of this ordinance, every existing Computer Gaming and Internet Access Business shall file a statement with the Community Development Director evidencing its compliance with all provisions of this chapter and providing all information as provided in § 5-11.40. The review and determination of the Community Development Director shall be provided within fourteen (14) days of the filing of the application. In the event that the license requires the installation of improvements at the business (e.g., lighting, surveillance, etc) all such improvements shall be installed per a schedule agreed by the Community Development Director; however, not to exceed twenty-one (21) days following the determination of the Community Development Director on the license application.

SECTION 4. CEQA. This ordinance is not a project within the meaning of Section 15378 of the State CEQA (California Environmental Quality Act) Guidelines, because it has no potential for resulting in physical change in the environment, directly or ultimately. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guideline section 16061 (b) (3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

SECTION 5. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

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SECTION 6. Effective Date. This Ordinance shall take effect thirty (30) days after adoption as provided by Government Code Section.

SECTION 7. Publication; Certification. The City Clerk shall certify to the adoption of this Ordinance and cause same to be published in accordance with State law.

* * * * *

I HEREBY CERTIFY that the foregoing Ordinance was introduced on 28th day of February, 2012 and adopted at a regular meeting of the City Council of the City of Antioch on _____, 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

James D. Davis, Mayor of the City of Antioch

ATTEST:

Denise Skaggs, City Clerk of the City of Antioch

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ATTACHMENT "D"

RESOLUTION NO. 2012/**

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANTIOCH ADOPTING A RESOLUTION OF INTENT TO INITIATE AN AMENDMENT TO CHAPTER 5 OF TITLE 9 OF THE ANTIOCH MUNICIPAL CODE TO ADDRESS COMPUTER GAMING AND INTERNET ACCESS BUSINESSES

WHEREAS, Computer Gaming and Internet Access Business" shall mean an establishment that provides more than four (4) computers or other electronic devices for access to the world wide web, internet, e-mail, video games or computer software programs which operate alone or are networked (via LAN, WAN or otherwise) or which function as a client/server program, and which seeks compensation, in any form, from users; "Computer Gaming and Internet Access Business" is synonymous with a personal computer ("PC") café, internet café, cyber café, sweepstakes gaming facilities, business center, internet sales business and internet center, but does not include a Public Use or Internet Learning Center, which is defined as an establishment that provides computer access which is operated by the City of Antioch, a school district, a library, a college district, or a private institution of learning which provides classes in computer instruction or a non-profit organization which does not receive compensation in any form other than school tuition; and

WHEREAS, the City has received and anticipates additional requests for the construction, establishment and operation of Computer Gaming and Internet Access Businesses within the City; and

WHEREAS, the City of Antioch, as well as neighboring cities, have experienced criminal activity associated with Computer Gaming and Internet Access Businesses, including incidents involving robbery, illegal drug use and sales, burglary, assaults, public intoxication, vandalism and property damage and loitering; and

WHEREAS, there have been complaints about prostitution associated with these uses and it is known that other cities have experienced significant gang-related activities occurring at these Computer Gaming and Internet Access Businesses; and

WHEREAS, the City Council has determined that the provisions of the City Municipal Code that may regulate the construction, operation and establishment of Computer Gaming and Internet Access Businesses in the City are inadequate and need review, study, and revision to fully take into account the impacts related to the location and manner of construction, establishment and operation of Computer Gaming and Internet Access Businesses, and the related public health, safety, and welfare concerns, including but not limited to the impacts they may have on parking, surrounding uses, and the community;

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Antioch adopts this resolution of intention to initiate an amendment to Chapter 5 of Title 9 of the Antioch Municipal Code to address land use issues with Computer Gaming and Internet Access Businesses

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RESOLUTION NO. 2012/**

February 28, 2012

Page 2

* * * * *

I **HEREBY CERTIFY** that the foregoing resolution was duly passed and adopted by the City Council of the City of Antioch, California, at a regular meeting thereof held on the 28th day of February 2012, by the following vote:

AYES:

NOES:

ABSENT:

DENISE SKAGGS, City Clerk

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Atty BH4
DI

ATTACHMENT "E"

CITY OF ANTIOCH BUSINESS LICENSE APPLICATION



DUE BY:
BUSINESS NO: 3005779
CLASS CODE:

INSTRUCTIONS

*Hold License Cert for Pick up
give to [redacted]*

1. MAILING NAME & ADDRESS IPG Inc. [redacted] Spring Hill, FL 34606		2. BUSINESS NAME IPG Inc. dba Rapid Business Solutions	
3. BUSINESS ADDRESS 1892 A Street		4. BUSINESS CITY, ST, ZIP Antioch, CA 94509	
5. PHONE 914-498-3629	6a. CELL PHONE 914-[redacted]	6b. FAX 815-349-2829	6c. E-MAIL ADDRESS Internetpromotiongroup@gmail.com
7. BUSINESS DESCRIPTION Offer consumers print, copy, fax services, and internet access			
8. FED ID# [redacted]	9. STATE ID# [redacted]	10. SELLER'S PERMIT#	11. HOME OCCUPATION#
12. OWNER TYPE (Sole Proprietorship, Partnership, CORP, Trust) [redacted]		13. CERTIFICATION NO.	14. NUMBER OF EMPLOYEES [redacted]
15. OWNER#1 NAME James Hayes		16. OWNER#2 NAME Gino Ciaschetti	
17. OWNER#1 ADDRESS (NO PO BOXES, STATE REQUIREMENT) [redacted]		18. OWNER#2 ADDRESS (NO PO BOXES, STATE REQUIREMENT) [redacted]	
19. OWNER#1 CITY, ST, ZIP Dunedin, FLORIDA 34697		20. OWNER#2 CITY, ST, ZIP Humble, TX 77396	
21. OWNER#1 HOME PHONE 914-[redacted]		22. OWNER#2 HOME PHONE 713-[redacted]	
23. OWNER#1 SSN [redacted]	24. OWNER#1 DL [redacted]	25. OWNER#2 SSN [redacted]	26. OWNER#2 DL [redacted]
27. CONTACT NAME Jimmy Hayes or Gino Ciaschetti		28. CONTACT PHONE 914-[redacted] or 713-[redacted]	
29. LICENSE TYPE (Office use only)	29A. INTERNET ADDRESS internetpromotiongroup@gmail.com		
30A. GROSS RECEIPTS	30B. NUMBER OF CARD TABLES	30C. NUMBER OF VEHICLES	
31. LICENSE FEE [redacted]	32.	33. APPLICATION FEE [redacted]	
34. TOTAL AMOUNT DUE (combine lines 31, 32 & 33) [redacted]		35. DATE BUSINESS TERMINATED (IF OUT OF BUSINESS)	
OFFICE USE ONLY			
Effective Date: Purchase Date: FEB 16 2011	Expir. Date: Receipt No: 400542	Planning Dept: <i>APer</i>	Bldg Dept: <i>me</i>
		Zoning: C-2	Health Dept:

The undersigned, being authorized to make this Application, hereby declares to the best of his knowledge and belief that this is a true, correct, and complete Application made pursuant to the Antioch Municipal Code.

Sign Here

James Hayes
Signature

2-14-2011
Date

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**CITY OF ANTIOCH
BUSINESS LICENSE RENEWAL**

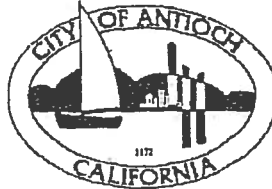


BUSINESS NO. 3004773
CLASCO E

INSTRUCTIONS			
1. MAILING NAME & ADDRESS T5 Internet Cafe Antioch, CA 94531		2. BUSINESS NAME T5 Internet Cafe	
3. BUSINESS ADDRESS 1653 A St		4. BUSINESS CITY, ST, ZIP Antioch CA 94509	
5. PHONE 925 522 0801	6. EMERGENCY PHONE 925 [REDACTED]	6B. FAX	6C. E-MAIL ADDRESS Aeventoremember@comcast.net
7. BUSINESS DESCRIPTION Internet Cafe			
8. FEED ID#	9. STATE ID#	10. SELLER'S PERMIT#	11. HOME OCCUPATION#
12. OWNER #1 TYPE (Sole Proprietorship, Partnership, CORP, Trust)		13. CERTIFICATION NO.	14. NUMBER OF EMPLOYEES
15. OWNER #1 NAME Patricia Simmen		16. OWNER #2 NAME	
17. OWNER #1 ADDRESS (NO PO BOXES / STATE REQUIREMENT)		18. OWNER #2 ADDRESS (NO PO BOXES / STATE REQUIREMENT)	
19. OWNER #1 CITY, ST, ZIP Antioch CA 94531		20. OWNER #2 CITY, ST, ZIP	
21. OWNER #1 HOME PHONE		22. OWNER #2 HOME PHONE	
23. OWNER #1 SSN		25. OWNER #2 SSN	26. OWNER #2 DL#
27. CONTACT NAME Patricia Simmen		28. CONTACT PHONE 925 [REDACTED]	
29. LICENSE TYPE (Office Use only)		29A. INTERNET ADDRESS	
30. GROSS RECEIPTS \$ [REDACTED]	30B. NUMBER OF CARD TABLES	30C. NUMBER OF VEHICLES	
31. LICENSE FEE	32. RENTALTY	33. APPLICATION FEE	
34. TOTAL AMOUNT DUE (combine lines 31, 32 & 33) \$ [REDACTED]		35. DATE BUSINESS TERMINATED (IF OUT OF BUSINESS)	
OFFICE USE ONLY			
Effective Date	Expir. Date 4-30-11	Planning Dept. [Signature]	Bldg Dept. [Signature]
Purchase Date	Receipt No. 412134	Zoning [Signature]	Health Dept.
The undersigned, being authorized to make this Application, hereby declares to the best of his knowledge and belief that this is a true, correct, and complete Application made pursuant to the Antioch Municipal Code.			
Sign Here [Signature]		Date 4-6-11	

Handwritten notes: CPT, Ato, EZ

**CITY OF ANTIOCH
BUSINESS LICENSE
DELINQUENCY NOTICE**



DUE BY: 05/30/2010
BUSINESS NO 3004773
CLASS CODE: 0 - 0

INSTRUCTIONS			3rd Notice		
Please review the complete form and make corrections to this side. Complete lines 30, 31, 32, 33 and 34. Use schedule on reverse side to calculate fees.					
Your license fee is delinquent, add a 10% penalty if paid after due date					
1. MAILING NAME & ADDRESS T'S INTERNET CAFE [REDACTED] ANTIOCH, CA 94531-6357 [Barcode]			2. BUSINESS NAME T'S INTERNET CAFE		
5. PHONE (925)522-0801			6a. EMERGENCY PHONE 925-[REDACTED]		6b. FAX
7. BUSINESS DESCRIPTION INTERNET SALES			6c. E-MAIL ADDRESS:		
8. FED ID#		9. STATE ID#		10. SELLERS'S PERMIT #	11. HOME OCCUPATION #
12. OWNER TYPE (Sole Proprietorship, Partnership, CORP, Trust) [REDACTED]			13. CERTIFICATION NO.		14. NUMBER OF EMPLOYEES
15. OWNER #1 NAME Patricia Cooper Simmons			16. OWNER #2 NAME		
17. OWNER #1 ADDRESS (NO PO BOXES, STATE REQUIREMENT) [REDACTED]			18. OWNER #2 ADDRESS (NO POBOXES, STATE REQUIREMENT)		
19. OWNER #1 CITY, ST, ZIP Antioch CA 94531			20. OWNER #2 CITY, ST, ZIP		
21. OWNER #1 HOME PHONE Kevin Amador			22. OWNER #2 HOME PHONE		
23. OWNER #1 SSN [REDACTED]		24. OWNER #1 DL [REDACTED]		25. OWNER #2 SSN	26. OWNER #2 DL
27. CONTACT NAME Patricia Cooper Simmons			28. CONTACT PHONE		
29. LICENSE TYPE (Office use only)		29A INTERNET ADDRESS			
30A. GROSS RECEIPTS		30B. NUMBER OF CARD TABLES 2		30C. NUMBER OF VEHICLES	
31. LICENSE FEE [REDACTED]		32. PENALTY [REDACTED]		33. APPLICATION FEE [REDACTED]	
34. TOTAL AMOUNT DUE (combine lines 33, 34 & 35) [REDACTED]			35. DATE BUSINESS TERMINATED (IF OUT OF BUSINESS)		
OFFICIAL USE ONLY					
Effective Date: 05/01/2010		Expir. Date: 04/30/2011		Planning Dept:	Bldg Dept:
Purchase Date: JUN 23 2010		Receipt No: 348181		Zoning:	Health Dept:
The undersigned, being authorized to make this Application, hereby declares to the best of his knowledge and belief that this is a true, correct, and complete Application made pursuant to the Antioch Municipal Code.					
Sign Here		[Signature]		Date: 6-21-10	

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**CITY OF ANTIOCH
BUSINESS LICENSE APPLICATION**



DUE BY:
BUSINESS NO. 3006114
CLASS CODE:

INSTRUCTIONS

1. MAILING NAME & ADDRESS <u>Cotton the Web</u> <u>2333A Buchanan</u> <u>Antioch CA 94509</u>		2. BUSINESS NAME <u>Cotton the Web</u>	
3. BUSINESS ADDRESS <u>2333A Buchanan</u>		4. BUSINESS CITY, ST, ZIP <u>Antioch CA 94509</u>	
5. PHONE <u>925 201 8832</u>	6. ALT PHONE <u>925 [REDACTED]</u>	8. CELL PHONE <u>925 [REDACTED]</u>	65. FAX NUMBER
66. EMAIL ADDRESS <u>Aevent@remembercontact.net</u>		7. BUSINESS DESCRIPTION <u>Fax Copy Print Internet</u>	
8. FED ID#	9. STATE ID#	10. SELLER'S PERMIT#	11. HOME OCCUPATION#
12. OWNER TYPE (Sole Proprietorship, Partnership, CORP, Trust)		13. CERTIFICATION NO.	14. NUMBER OF EMPLOYEES
15. OWNER#1 NAME <u>Patricia Simmons LLC</u>		18. OWNER#2 NAME	
17. OWNER#1 ADDRESS (NO PO BOXES, STATE REQUIREMENT)		18. OWNER#2 ADDRESS (NO PO BOXES, STATE REQUIREMENT)	
19. OWNER#1 CITY, ST, ZIP <u>Antioch CA 94531</u>		20. OWNER#2 CITY, ST, ZIP	
21. OWNER#1 HOME PHONE <u>925 [REDACTED]</u>		22. OWNER#2 HOME PHONE	
23. OWNER#1 SSN	24. OWNER#1 DI	25. OWNER#2 SSN	26. OWNER#2 DI
27. CONTACT NAME <u>Patricia Simmons</u>		28. CONTACT PHONE	
29. LICENSE TYPE (Office Use only)	29A. INTERNET ADDRESS		
30A. GROSS RECEIPTS	30B. NUMBER OF CARD TABLES	30C. NUMBER OF VEHICLES	30D. STICKER FEE (\$5/VEHICLE)
31. LICENSE FEE	32. PENALTY	33. APPLICATION FEE	
34. TOTAL AMOUNT DUE (combine lines 31, 32 & 33)		35. DATE BUSINESS TERMINATED (IF OUT OF BUSINESS)	
OFFICE USE ONLY			
Effective Date	Expir. Date	Planning Dept. <u>13</u>	Bldg Dept. <u>AB</u>
Purchase Date <u>SEP 29 2011</u>	Receipt No. <u>450689</u>	Zoning <u>C3</u>	Health Dept.

The undersigned, being authorized to make this Application, hereby declares to the best of his knowledge and belief that this is a true, correct, and complete Application made pursuant to the Antioch Municipal Code.

Sign Here

Patricia Simmons
Signature

Date

C76
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ADDRESS	BUSINESS	Before Internet Café		Internet Café		%Change
		2/16/10 - 2/15/11	Totals	2/16/11 - 2/15/12		
Delta Fair BL		109		259		137.61%
2954	CA Check Cashing	52		124		138.46%
2958	Super Wine	44		77		75.00%
2962	Internet Room	0				nc
2970	Gold Palace	0		3		
2974	UPS Store	7		15		114.29%
2980	The OTS group	0		7		
2982	Geeta's Herbal Spa & Salon	3		6		100.00%
2996		1		0		
3000	Better Homes Realty	2		11		450.00%

Sample types of Calls	Before Internet Café		Internet Café		
	2/16/10 - 2/15/11	Totals	2/16/11 - 2/15/12		
CA Check Cashing					
DISPO CLASS					
MSDS	7		21		200.00%
SUSC	7		16		128.57%
ATMC	7		19		171.43%
DRUN	0		3		
FINF	0		11		
LOIT	0		5		
Super Wine					
DISPO CLASS					
ATMC	9		14		55.56%
AUTT	0		2		
MSDS	7		21		200.00%
SUSC	3		12		300.00%

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ADDRESS	BUSINESS	Before Internet Café		Internet Café		After Internet Café		
		2/1/09-8/30/09	2009	2/1/10-8/30/10	2010	2/1/11-8/30/11	2011	%Change
	Totals	157	240			158		
1800	Gas of America	29	59			40		-34.17%
1806	Juarez	7	8			9		-32.20%
1808		1	0			1		12.50%
1818	Grocery Outlet	49	50			31		nc
1826		0	1			0		-38.00%
1828		4	0			4		-100.00%
1836	Internet Café	0				0		nc
1840	Gold Star	1	9			2		-100.00%
1844		0	0			2		-77.78%
1848	Quick Check	2	5			1		nc
1852		3	1			1		-80.00%
1860	Lamothe Cleaners	3	9			7		0.00%
1864		1	1			0		-22.22%
1868	Delta Vaccum	1	5			3		-100.00%
1870	CCC Fed Credit Union	4	1			1		-40.00%
1872	Berrys	1	0			1		0.00%
1884	Thai Cuisine	0	2			1		-50.00%
1888	Cheers	0	4			4		0.00%
1890	Rock Bottom Records	6	9			5		-44.44%
1892	Minute Man Press	1	0			1		nc
1894	STARBUCKS	29	1			2		100.00%
1896	STARBUCKS	15	48			43		-10.42%

C78
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 F2

5.5 months

ADDRESS	BUSINESS	Before Internet Café		Internet Café		After Internet Café	
		9/1/09-8/31/10	9/1/10-8/31/11	9/1/10-8/31/11	%Change	09/01/11 - 2/15/12	
A ST	Totals	166	279	279	68.07%	72	
1611	Cruisers	61	72	72	18.03%	27	
1615	Fireside Thrift	10	7	7	-30.00%	6	
1623	Auto Zone	46	57	57	23.91%	22	
1625	The Beauty Source	9	6	6	-33.33%	0	
1631	Delta Barber	2	15	15	650.00%	3	
1633		0	1	1	nc	0	
1635	Russell's Cheesecake	0	3	3	nc	0	
1639		1	5	5	400.00%	2	
1641	World Fashion	21	4	4	-80.95%	0	
1645	Los Caporalles	2	4	4	100.00%	2	
1653	Internet Café	0			nc	4	
1657	Launderland	6	12	12	100.00%	5	
1661		0	2	2	nc	0	
1663	Dollar Store	8	24	24	200.00%	1	

ADDRESS	BUSINESS	Before Internet Café		Internet Café	
		8/20/10-12/31/10	2010	8/20/11-12/31/11	2011
A ST	Totals	3	38	38	1166.67%
1900		1	4	4	300.00%
1908	Internet Café	0			nc
1912	APEX	2	0	0	-100.00%

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ADDRESS	BUSINESS	Before Internet Café		Internet Café		%Change
		9/1/10 - 2/15/11	9/1/11 - 2/15/12	9/1/11 - 2/15/12	9/1/11 - 2/15/12	
BUCHANAN RD	Totals	7	19	19	171.43%	
2327	OKAWA	2	2	2	0.00%	
2329	Brooks & Books	0	1	1		
2331 #A	Serenity Salon & Spa	0	2	2		
2331 #B	Black Diamond Print	0	3	3		
2333 #A	COT on the Web	0				
2333 #B	Dominos Pizza	5	5	5	0.00%	

C80
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 A7Z
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ATTACHMENT "G"

CALLS FOR SERVICE
2962 DELTA FAIR BL
2/16/11 - 2/15/12

PRINTED:2/16/2012

<u>EVENT#</u>	<u>RCV TIME</u>	<u>CLASS</u>	<u>DISPO</u>	<u>CASE#</u>	<u>SYNOP</u>
11068917	7/26/11 0:46	MSIN	MSIN		NEW INTERNET CAFE - NAME AND LOCATION NOTED FOR ADDITION TO CAD.
11097719	10/16/11 20:29	911U	911U		NVC/VOIP LINE
11109110	11/21/11 12:46	MEDPD	FIDA		FIRE ENRT FOR A MALE LAYING ON THE GROUND, BARELY CONSCIOUS
11109512	11/22/11 18:18	27SUB	WRNO	11010014	OV NEW CASE FOR WARRANT XXXXXXXXXXXX
11116985	12/17/11 0:40	FINF	FINF		MALE FELL OUTSIDE IS BLEEDING FROM SIDE OF HIS FACE
12001418	1/5/12 15:37		CANC		
12002550	1/9/12 2:00	96	WRNO	12000286	
12007174	1/24/12 2:06		VCOO		
12007425	1/24/12 22:00	415V	DISC		VERB WITH SUBJ IFO LOC
12008291	1/27/12 19:49	415UG	MSDS		GROUP IFO REFUSING TO LEAVE.. RP IS OTS SECURITY
12008631	1/28/12 22:11	10851	CIVI		2007 GRY DODGE MAGNUM XXXXXXXXXX (LOC VIA DMV) RP SAID HE JUST MET SOME GUY AND HE ALLOWED HIM TO DRIVE HIS VEH TO THIS LOC SO RP COULD USE THE RESTROOM BEF THEY WENT OVER THE HILL TO "DO SOME BUSN" WHEN RP CAME OUT, UNK MALE THAT HE JUST MET WAS GONE WITH RPS VEH.....
12008717	1/29/12 8:39	10851	CIVI		OCC SOMETIME DURING THE NIGHT 07 GRY DODGE MAGNUM LIC XXXXXXXXXX
12009234	1/30/12 22:56	1059	XPAT		
12009256	1/31/12 1:30	96	VCOO	12001054	
12011363	2/6/12 22:29	VCOO	VCOO		
12011680	2/8/12 0:51		ATMC		

TOTAL # EVENTS 16

TOTAL # CASES 3

{EVENT_MAIN.ADDR_ST} = "DELTA FAIR BL" and
{EVENT_MAIN.ADDR_NUM} = "2962" and
{EVENT_MAIN.RCV_TIME} in DateTime (2011, 02, 16, 00, 00, 00) to DateTime (2012, 02, 15, 23, 59, 59)

h:\Crystal Reports\CFS Reports\InternetCafes\CFS-Syn-2962DFB.rpt

Report is based on unaudited CAD/RMS data at time of report generation.
Report for analysis purposes only - not for distribution - Law Enforcement Use Only

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GT
Page 1 of 1

**CALLS FOR SERVICE
1908 A ST
8/20/11 - 12/31/11**

PRINTED:2/16/2012

<u>EVENT#</u>	<u>RCV TIME</u>	<u>CLASS</u>	<u>DISPO</u>	<u>CASE#</u>	<u>SYNOPSIS</u>
11077745	8/20/11 22:26	415UG	MSDS		HMA LSW RED HAT RED SHIRT IFO THROWING THINGS AT THE BUSN AND YELLING THAT HE IS GOING TO COME BACK AND HURT THE EMPS... PER RP THE BUSN JUST MOVED AND THEY ARE NOW AT 1908 A ST .. [REDACTED] CAME IN AS 1653 A ST .. WAS ADV TO CONTACT PHONE COMPANY TO CORRECT .. PLS HAVE OFCR CONFIRM ADDRESS WHEN 97
11078136	8/22/11 7:58		ACCN	11006858	
11086692	9/15/11 0:54	417	SUSC		OCCRD AT 19TH/ D ST 5 AGO ... MALE POINTED THE GUN AT RP AND COCKED IT
11089401	9/22/11 22:25	PTOW	PTOW		91 CHEV VAN WHI CALIC #4 [REDACTED] LEFT ON PREMISE W/O PERMISSION
11090260	9/25/11 2:03	647F	DRUN	11007953	IN SMOKING AREA IN THE BACK OF THE BLDG.. 1051 WF BLN HAIR LSW BLK SHIRT AND BLU JEANS REFUSING TO LEAVE.... ACTING VERY AGGRESSIVE
11091081	9/27/11 18:19	95	NARC	11008041	
11094268	10/6/11 22:42	96	AUTR	11008369	
11094358	10/7/11 6:42	SUSP	SUPP		RP SAID POLICE WERE LOOKING FOR A MALE RE A 10851 VEH...RP SAID THE MALE IS BACK, WM YELLOW HAT, THIN BUILD....MALE RAN OFF WB ON W 20TH....NFI TRO ON W 20TH
11096757	10/14/11 1:32	94	WRNO	11008608	
11096763	10/14/11 1:54	96	MSNF	11008609	SEP INC FOR THE 96
11097174	10/15/11 5:09	SUSP	SUPP		[REDACTED] IS IFO T'S INTERNET IN MULTIPLE COLOR ZIP UP HOODIE, BLK PANTS, WHI SHOES. SUBJ SHOULD HAVE PC ON A 288 CASE
11098790	10/20/11 1:41	FINF	FINF		F/A ENRT FOR CUSTOMER FEELING ILL, SWELLING IN LEGS AND HANDS, SUFFERS FROM LUPIS, CONSCIOUS AND BREATHING
11098824	10/20/11 4:58	FINF	FINF		MALE 24YS POSS ASTHMA ATTACK, AWAKE
11098851	10/20/11 8:11		WRNO	11008857	
11100420	10/24/11 21:56		WRNO	11009027	
11100726	10/25/11 23:27	94	FIED		
11101053	10/27/11 2:40	SUSV	SUSC		RP RECV'D INFO THAT HIS GIRLF [REDACTED] 37 YO LEFT IN A 10851 WHI HOND ACC WITH 3 BM'S AND ARE PARKED AT THE ABOVE BUSN - NFI
11101413	10/28/11 3:18	415V	DISC		TO THE REAR OF BUSN, 6 MALES ARGUING. RP CLAIMS SOMEONE HAS A GUN BUT WHEN QUESTIONED FURTHER MALE SAID HE DOESN'T KNOW AND HUNG UP
11101754	10/28/11 23:06	FINF	FINF		ANOTHER CALL OF ODOR OF NATURAL GAS..CONFIRE 49
11103379	11/2/11 19:06	415UG	SUSC		BELLIGERNT FEMALE ON 19TH SIDE OF STORE.. ASKED TO LEAVE SO SHES UPSET WFA WRG BABY BLUE TANK TOP BEH THE ABOVE
11105196	11/8/11 20:34	94	SUSC		
11105283	11/9/11 8:36	94	WRNO	11009540	X21, [REDACTED] HAT DK PLAID SWTER
11106500	11/13/11 2:01	96	VCOO		

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<u>EVENT#</u>	<u>RCV TIME</u>	<u>CLASS</u>	<u>SPO</u>	<u>CASE#</u>	<u>SYNOPSIS</u>
11109312	11/22/11 5:01	415UG	SRVC		BMA 20'S REFUSING TO LEAVE AFTER FALLING ASLEEP AT THE STATION AND RUNNING OUT OF MONEY/ TIME ON HIS ACCOUNT.. STILL SITTING AT A COMPUTER WRG BLK HOODED SWEATSHIRT
11110006	11/24/11 12:21	96	AUTR	11010069	
11110550	11/26/11 11:12	96	SUSC		PLOT
11111845	11/30/11 21:06	1059	HOOO		RP SAYS PATRONS FROM INTERNET CAFE ARE SMOKING HS BY THE DUMPSTER IN THE BACK PLOT.. RIGHT NOW MALE AND 2 FEMALES
11111949	12/1/11 8:54	94	WRNO		
11112557	12/2/11 22:01	UNK	SUSC		IN BACK PARKING LOT RP GOT A CALL FROM A SEC GUARD WHO IS 97 IN BACK PARKING LOT... SAID HE HAD SOMEONE IN CUFFS THEN THE PHONE DROPPED AND LINE WENT DEAD. RP IS 49 BUT REQUESTING PD ALSO
11113240	12/5/11 2:26	96	SUSC		
11116649	12/16/11 4:32		XPAT		
11118279	12/21/11 12:18		SUSC		
11119257	12/24/11 14:16		MSNF		
11120678	12/29/11 18:35	415	DRUN	11011304	

TOTAL # EVENTS 34

TOTAL # CASES 11

{EVENT_MAIN.ADDR_ST} = "A ST" and
 {EVENT_MAIN.ADDR_NUM} = "1908" and
 {EVENT_MAIN.RCV_TIME} in DateTime (2011, 08, 20, 00, 00, 00) to DateTime (2011, 12, 31, 23, 59, 59)

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CALLS FOR SERVICE
1653 A ST
9/1/10 - 8/31/11

PRINTED:2/16/2012

<u>EVENT#</u>	<u>RCV TIME</u>	<u>CLASS</u>	<u>DISPO</u>	<u>CASE#</u>	<u>SYNOP</u>
10089393	9/11/10 0:52	415F	ASLS		MALE AND FEMALE ON THE PHONE - BOTH SOUND INTOX OR ON H&S - SAYS PARKER, JOHN IS ON PAROLE AND GAVE THE FEMALE RP'S HUSB A LUMP ON HIS HEAD - AND NOW HE IS TRYING TO TAKE HIS VEH
10096584	9/30/10 22:35		NARC	10008553	
10096629	10/1/10 0:47	94	SUSC		
10103792	10/22/10 1:55		WRNO	10009178	
10110505	11/12/10 0:15	94	WRNO	10009842	
10111087	11/13/10 20:29	94	SUSC		
10112776	11/18/10 21:15	211A	ROBB	10010053	MALE W/BLK MASK, BLK HOODED SWEATSHIRT, BLK JEANS, JUST ROBBED MONEY FROM REGISTER, WAS ARMED W/SAW OFF SHOT GUN SHOT IT AT A CO WORKER, NO ONE HIT
10115832	11/28/10 19:36	488	THOF		IPOD STOLEN AND RP WANTS APD TO CK THEIR CAMERAS FOR THE RESP....OK TO SEND OFC PER C22
10116206	11/29/10 23:22	CIVI	CIVI		RP FOUND HER BLU PONT TRANSPORT VAN AT THE ABOVE LOCATION - RP SAYS HER DAUGHTER TOOK IT AND SHE IS STILL THERE - NOW A MALE IS THERE TRYING TO TAKE VEH FROM THE RP - VEH HAS DIABLO DEALER PAPER PLATES VIN: [REDACTED]
10116816	12/1/10 20:52	94	SUSC		
10116863	12/1/10 23:25	95	VCOO		
10118970	12/8/10 23:48	PROM	PCOO		3 TO 4 SHOTS HEARD, NOTHING SEEN - SECURITY HAS INFO
10125571	12/30/10 19:54	96	VCOO		
11002393	1/8/11 21:01	488	THOF		THEFT OF CELL PH BY UNK RESP E # GIVEN
11008727	1/28/11 20:56	94	MSDS		ON 3
11008803	1/29/11 0:39	95	NARC	11000809	BLK HOND NP
11010169	2/2/11 11:26	HSOO	HSOO		[REDACTED] WORKS AT LOC AND HIS GIRLFRIEND [REDACTED] ARE BUYING AND SELLING DRUGS AT LOC....SHE SAYS HE SOMETIMES "CHEEKS" HIS DRUGS....UNK IF THEY ARE THERE NOW OR NOT...RP SAYS [REDACTED] HAS TRACK MARKS ALL OVER HIS ARMS BUT WEARS LONG SLEEVED SHIRTS TO COVER THEM UP
11010329	2/2/11 21:45	94	SUSC		
11010370	2/3/11 1:06	94	VCOO		
11013060	2/10/11 23:00	96	VCOO		
11015349	2/18/11 0:51	95	VCOO		
11015870	2/19/11 20:48		SUPP		
11015889	2/19/11 22:23	95	VCOO		

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<u>EVENT#</u>	<u>RCV TIME</u>	<u>CLASS</u>	<u>SPO</u>	<u>CASE#</u>	<u>SYNOPSIS</u>
11016438	2/21/11 20:07	415F	MSDS		VERY LOUD VERBAL 2 HFS #1 WEARING PINK SHIRT GRY SWEATPANTS...
11016818	2/23/11 0:47	1059	XPAT		
11017471	2/25/11 1:47	95	NARC	11001604	
11020498	3/5/11 23:26	96	SUSC		
11023162	3/13/11 23:21	95	VCOO		
11024113	3/16/11 22:42	94	MSDS		
11025168	3/20/11 3:18	215	CARJ	11002337	10 AGO OCC NEAR AT 20TH/C RP JUST WALKED HERE TO CALL JAMIE UNK LAST NAME AND HER FRIEND HIT RP WITH A PIPE AND BBQ AN THEN TOOK RPS SIL FORD F350 KING CAB, UNK LIC REGISTERD TO [REDACTED] (RP NOT SURE OF SPELLING) MEDICAL REFUSED ALSO TOOK CELL [REDACTED]
11026661	3/25/11 1:59	FIRE	FDIC		VEH ON FIRE CUSTOMER INSIDE THE BUSN - NO ONE IN THE VEH / UNK WHAT HAPPENED.. XFERRERD TO FIRE - ENR
11029305	4/1/11 23:32	94	SUPP		
11029757	4/3/11 2:34	95	VCOO		
11029765	4/3/11 3:00	95	VCOO		
11034055	4/16/11 2:20	95	VCOO		
11036122	4/21/11 21:46	96	SRVC		
11036157	4/21/11 23:31	96	PARK		
11036883	4/24/11 0:54	415	MALM		2 SUBJS CHASING EACH OTHER IN THE PARKING LOT, 1 IN A BLK NISS AND 1 IN A GREEN HONDA, PR ADV THE GREEN HONDA HIT A WHI CADI
11038848	4/29/11 23:58		PARK		
11038890	4/30/11 1:59	94	SUSC		
11041791	5/8/11 1:28		WRAN	11003794	
11043128	5/12/11 1:11	95	VCOO		
11043224	5/12/11 10:02	94	WRNO	11003932	
11043239	5/12/11 10:53	94	SUSC		
11043876	5/13/11 23:23	95	VCOO		
11044017	5/14/11 10:32	94	SUSC		
11045926	5/20/11 3:02	1059	NARC	11004182	
11048426	5/27/11 14:11	94	SUSC		
11049360	5/30/11 9:38	SUSV	SUSC		MALE DRIVING THRU THE PL SEVERAL TIMES IN A BLK DURANGO...LS PARKED TRO OF RITE AIDE DRIVER WM C4
11050187	6/1/11 22:40	96	PARK		

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<u>EVENT#</u>	<u>RCV TIME</u>	<u>CLASS</u>	<u>SPO</u>	<u>CASE#</u>	<u>SYNOP</u>
11050220	6/2/11 0:36	PARK	PARK		
11050899	6/3/11 20:30	PARK	PARK		
11062140	7/5/11 22:53	27SUB	SUSC		RECD INFO THAT PAROLEE AT LARGE IS AT THIS LOC...RESP IS [REDACTED] UNK DOB.....RP HAS NFI. SUBJ IS NOT HIS PAROLEE AND HE HAS NFI.....NO BAIL CDC IN WPS W/4
11063231	7/9/11 0:40	94	SUSC		
11063642	7/10/11 2:41	314	EXPO		WF BLN HAIR ABOUT 24YO 504-505... STRIPPED DOWN NAKED IFO .. WAS WEARING A BLU MINI SKIRT.... FEM ARRIVED WITH A BM BLK HAT WHI SHIRT BLU SHORTS SAGGING BELOW HIS BUTTOCKS.. BOTH SUBJS HEAVILY INTOXICATED
11064952	7/14/11 1:57	10851R	AUTR	11005755	C5 ON UNOCCUPIED 10851
11065264	7/14/11 22:07	94	MSDS		94 ON 4
11065295	7/14/11 23:57	96	SUSC		
11067206	7/21/11 0:25	415	CARJ	11005954	SUBJ TRIED TO REPORT A GUY NAMED [REDACTED] JUST TOOK HIS VEH, BLK 2000 TOYT CAMRY LICTHEN 415 BROKE OUT OVER THE PHONE
11070675	7/31/11 10:26	95	SUPP		
11070676	7/31/11 10:32		AUTT	11006251	
11070678	7/31/11 10:38		AUTR		
11071782	8/3/11 20:09	HOOO	HOOO		ABOUT 6 SUBJS HANGING OUT IFO THE LOC, APPEAR TO BE USING HS
11071927	8/4/11 10:10	96	SUSC		
11072239	8/5/11 3:08	96	VCOO		
11073120	8/7/11 13:25	94	WRNO	11006430	WTH 1
11074887	8/12/11 18:11	94	SUSC		

TOTAL # EVENTS 67

TOTAL # CASES 14

{EVENT_MAIN.ADDR_NUM} = "1653" and
 {EVENT_MAIN.ADDR_ST} = "A ST" and
 {EVENT_MAIN.RCV_TIME} in DateTime (2010, 09, 01, 00, 00, 00) to DateTime (2011, 08, 31, 00, 00, 00)

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CALLS FOR SERVICE

1836 A ST

2/1/10 - 8/30/10

PRINTED:2/16/2012

EVENT#	RCV TIME	CLASS	DISPO	CASE#	SYNOPSIS
10016711	2/19/10 15:10	5150	AIDX		PURSE MISSING FROM THE BINGO HALL NEAR THIS LOC RP HAS NO MAILING ADDRESS OR HOME SAYS SHE IS HOMELESS AND OUT OF OR ALMOST OUT OF HER MEDS FOR BIPOLAR,SUICIDAL TENDENCIES... PURSE WAS BRO MED SIZE WITH RPS TEETH,MEDS AND CADBURY EGGS INSIDE
10019077	2/26/10 19:47	94	SUSC		W/2
10021601	3/6/10 0:29	94	WRNO	10002054	
10030328	3/31/10 9:46	CAT	CATC		
10032897	4/8/10 0:37	94	WRNO	10003164	INT CAFE
10033045	4/8/10 13:49	415L	MSDS		WM TRANSIENT IFO THE BUSN ASKING FOR MONEY, NOT BOTHERING ANYONE BUT RP WOULD LIKE HIM MOVED ALONG WEARING OLD GRN ARMY JKT
10034163	4/11/10 17:32	SUSP	SUSC		BMA APPROX 20 LSW BEANIE WHI/BLU/RED JACKET KEEPS COMING INTO BUSN ACTING SUSP LS WALKING TWDS A ST
10034675	4/13/10 11:49	415V	SUSC		UNCOOPERATIVE RP SAYING SOMEONE IS TRYING TO FIGHT HIM OVER MONEY HE OWES RESP IS WMA 18-19 YO LONG BLN HAIR BLK SHIRT BLU JEANS ARRIVED ON FOOT
10045265	5/12/10 23:37	96	SUSC		
10046344	5/15/10 18:29	488	THOF		RPS CELL PHONE STOLEN FROM A MALE ...RP THINKS HES ON THE VIDEO
10047837	5/19/10 23:03	96	SUSC		
10048541	5/21/10 23:31	10851R	AUTR	10004654	UNOCC'D 10851
10050612	5/27/10 20:36	95	VCOO		GRAY CELICA NO PLATES
10050627	5/27/10 21:26	95	VCOO		
10053703	6/4/10 20:35	95	AUTS	10005105	
10056437	6/11/10 23:50	SUPP	SUPP		RP ADV SUSP IN JOES LIQUORS INCIDENT YESTERDAY IS A BM, THIN WEARING GLASSES, 99 CENT ONLY BAGS IN HIS HANDS..SUBJ WALKING TWDS INTERNET CAFE...OFC KIDD WAS LOOKING FOR THIS SUBJ PER THE RP
10059069	6/19/10 1:21	94	ASLS		
10061397	6/24/10 23:04		NARC	10005669	
10061417	6/25/10 0:35	94	ATMC		
10064092	7/2/10 1:14	96	SUSC		
10066477	7/7/10 22:05	95	VCOO		
10071603	7/22/10 22:52	94	HOO	10006488	
10071827	7/23/10 16:24	415D	ASLS	10006501	INSIDE BUSINESS MALE AND FEMALE YELLING AT EACH OTHER..NOW PHYSICAL..CAN HEAR THEM YELLING ...BMA 27 YRS...506 180 LBS LONG SLEEVE GRY SHIRT.....BFA 30 YRS...BLK SHIRT...NO WEAPONS SEEN...NO INJURIES

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<u>EVENT#</u>	<u>RCV TIME</u>	<u>CLASS</u>	<u>DISC</u>	<u>CASE#</u>	<u>SYNOPSIS</u>
10072022	7/24/10 1:21	96	VCOO		
10073649	7/28/10 22:01	96	SUSC		
10073978	7/29/10 21:25	94	PCOO		
10083767	8/26/10 22:12	94	VCOO		

TOTAL # EVENTS 27

TOTAL # CASES 7

{EVENT_MAIN.RCV_TIME} in DateTime (2010, 02, 01, 00, 00, 00) to DateTime (2010, 08, 30, 00, 00, 00) and
 {EVENT_MAIN.ADDR_NUM} = "1836" and
 {EVENT_MAIN.ADDR_ST} = "A ST"

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CALLS FOR SERVICE
2333 BUCHANAN RD #A
9/1/11 - 2/15/12

PRINTED:2/16/2012

<u>EVENT#</u>	<u>RCV TIME</u>	<u>CLASS</u>	<u>DISPO</u>	<u>CASE#</u>	<u>SYNOPSIS</u>
11085380	9/11/11 10:52	33A	ALAF		BUSN CAUGHT ON THE WEB POA FRONT DOOR/ FRONT MOTION 7787004
12003100	1/10/12 20:36	95	NARC	12000344	C4
12005356	1/18/12 1:58	PARK	VCOO		
12008958	1/30/12 4:44	96	LOIT		
12009252	1/31/12 1:18	96	SUSC		
12011679	2/8/12 0:35		VCOO		

TOTAL # EVENTS 6

TOTAL # CASES 1

{EVENT_MAIN.ADDR_NUM} = "2333" and
{EVENT_MAIN.RCV_TIME} in DateTime (2011, 09, 01, 00, 00, 00) to DateTime (2012, 02, 15, 23, 59, 59) and
{EVENT_MAIN.ADDR_APT} = "A" and
{EVENT_MAIN.ADDR_ST} = "BUCHANAN RD"

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ATTACHMENT "H"

SWEEPSTAKES GAMES RULES

1. Game Rules are pursuant to California Business and Professions Code Sections, 17539.5, 17539.15 (amended September 30, 2008), and 17539.55.
2. Lucky Symbols™ Sweepstakes game chances CAN NOT BE PURCHASED OR SOLD.
3. **THERE IS NO PURCHASE OR PAYMENT NECESSARY TO PLAY LUCKY SYMBOLS™ SWEEPSTAKES.**
4. Any person over the age of eighteen (18) may request a free sweepstakes game chance. No solicitation is required or implied with this free offer with regard to free sweepstake chances awarded in connection to the purchase of Internet Time Services. All game chances have the same "game chance" of winning a sweepstakes prize. Any person upon accepting a free sweepstakes game chance acknowledges and accepts the terms and condition set forth in these Game Rules.
5. One free sweepstakes game chance per customer per business day is permitted inclusive of all participating Lucky Symbols™ Sweepstakes Game locations throughout the State of California. Legal name, current address, date of birth and phone number must be provided in writing to receive a free sweepstakes game chance. All personal information gathered will be kept confidential and will not be sold or used in any manner or condition other than to positively identify and keep record of all persons granted a free sweepstakes game chance.
6. All sweepstakes game prizes are redeemed and awarded on the same business. No exceptions considered or accepted. All unclaimed sweepstakes game prizes are considered forfeited by the player.
7. Sweepstakes Game Chances have no cash value and therefore cannot be sold or redeemed for cash or anything of value.
8. Sweepstakes Game Chances are obtained solely by the purchase of Internet Time Access to a live Browser web interlink site (s) on demand by the user. Internet Time Access is the only recognized tangible commodity sold and/or purchased.
9. Sweepstake Game Chances are offered for the purpose of promoting increased sales of Internet Time Services Access.
10. The following classes of persons are not eligible to participate in the free sweepstakes game chances: present or former employees or agents of any Internet Time Access location engaged in the sale of Internet Time Services and offers Sweepstakes Game Chances to promote increased sales of Internet Time Services Access to the general public.
11. All played and winning and redeemed Sweepstakes Game Chance receipts remain to be the property of the game operator.
12. Sweepstakes Game Chance participants agree to release and hold harmless the game sponsor, its officers, members, employees, attorneys, affiliated organizations and agents, as well as the owners of any participating locations, and said owners' directors, officers, members, employees, attorneys, affiliated organizations and agents from any and all claims, demands, liabilities, costs, expenses, penalties, damages (including incidental, consequential and punitive damages), injuries, death, losses of any kind, including, without limitation, reasonable attorney's fees, arising from or in connection with or that may result from their acceptance or use of a prize, their participation in the Sweepstakes Game Chances. Game participants agree not to dispute or contest the Sweepstakes Game Chances winning or losing outcomes. Participants accept responsibility for all federal, state and local taxes on any Sweepstakes Game prizes awarded to the winners.

GAME PRIZES AND ODDS OF WINNING:

1. The number of prizes awarded and the total value of all prize awarded to win depends on the total number of Sweepstakes Game Chances played. The more game chances played increases the player's odds of winning a prize. Some game prize's ratio of win will make some prizes a more frequent winning prize. All prizes are eligible to be winning prize for any player. All prizes are awarded as a cash prize. Face value of each game prize are represented by the actual cash prize award amount assigned to that specific and separate game prize award. Example: A \$20.00 game prize can be redeemed for a twenty dollar (\$20.00) cash prize.
All game prizes must be redeemed on the same business day and must be redeemed at the same Sweepstakes Game operator location. No exceptions considered or accepted.

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ATTACHMENT "I"

9-5.3816 MECHANICAL OR ELECTRONIC GAMES.

These are subject to the following regulations:

(A) Any proprietor owning or operating a business lawfully in existence on August 26, 1982, shall be deemed to have been issued a permit pursuant to this article, provided such proprietor, within 30 calendar days after said date, submits on a form prescribed by the City Manager a record of information on such existing business. No filing fee or permit fee shall be payable therefor. The provisions of this section shall apply to subsequent proprietors at the same location.

(B) Machines may be replaced without a change in such permit. In the event machines are added after August 26, 1982, to total more than three machines for the establishment, a use permit will be required under the provisions of this article.

(C) It shall be unlawful for any proprietor to install, operate, or maintain to be operated any mechanical or electronic game without first having obtained a use permit. The permit shall be conspicuously posted at the location of the games in the premises and shall not be removed during the period for which the license was issued. In cases where the mechanical or electronic games occupy more than 50% of the premises' customer floor space, or account for 50% or more of the premises' gross revenue, or where 10 or more such games are proposed, the use permit shall be referred to the Council for final approval pursuant to the provisions of this article. The use permit shall state the number of games, and the use of additional games shall require a new or modified use permit.

(D) No operator shall install or allow any mechanical or electronic game to be installed in any proprietor's place of business which game requires a permit as provided for in this article unless such proprietor has been issued such permit.

(E) Applicants for use permits shall undergo a background check by the Police Department. The permit may be denied if the applicant has been convicted of a crime which has relevance to the operation of the premises.

(F) No such use permit shall apply to any premises other than the location originally approved. Upon change of ownership, the new owner shall receive clearance from the Police Department; however, no other use permit proceedings shall be required for such transfer if the new owner received police clearance.

(G) The permit provided for in this article may be revoked or suspended as provided for in this chapter. In addition, the violation of any provision of this article shall be grounds for revocation or suspension.

(H) The following shall be considered as standard use permit conditions which can be used as the basis for use permit revocation or suspension:

- (1) There shall be adult supervision during the hours of operation.

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- (2) There shall be no minors consuming alcohol on the premises.
- (3) There shall be no use, sale, exchange, or presence of drugs or other illegal substances on the premises.
- (4) Patrons shall not become a nuisance to the properties within the immediate vicinity.

(I) It shall be unlawful for any proprietor of a mechanical or electronic game to cause, permit, or allow such game to be located, operated, or main-tained to be operated within 1,000 feet of the nearest street entrance to or exit from any public playground or public or private school of elementary or high school grades, such distance to be measured from such entrance or exit in the most direct line or route on, along, or across such street or streets adjacent to such public playground or public or private school of elementary or high school grade. The restrictions established by this section shall not apply to businesses lawfully in existence and operating on August 26, 1982.

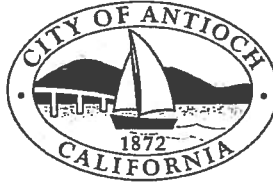
(J) It shall be unlawful for any proprietor or employee to allow any minor under 18 years of age to play or use any such games during the academic year for public schools in the city, except during school holidays and on Saturdays and Sundays, and between the hours of 7:00 a.m. and 10:00 p.m. on all days preceding school days and between 7:00 a.m. and 11:00 p.m. on all other days.

(K) This article shall not apply to the following:

- (1) Any operation involving three or fewer mechanical or electronic games, except where such games provide the main or primary source of income for the proprietor thereof;
- (2) The operation or maintenance of such games within recreational enterprises, such as bowling alleys or poolrooms, where a use permit has already been obtained; and
- (3) Premises or operations licensed by the Department of Alcoholic Beverage Control of the State for on-sale consumption of alcoholic beverages, excepting therefrom any such premises or operations which lawfully permit minors, such as bona fide public eating places.

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ATTACHMENT "J"



January 5, 2012

Will Beaubien
Beaubien Investment Group
One Market Street
Spear Tower, Suite 3600
San Francisco, CA 94105

Patricia Cooper-Simmons
T's Internet Café
3127 Sunflower Drive
Antioch, CA 94531

Re: **T's Internet Café**
522 West 2nd Street, Antioch (APN 066-051-006)

Dear Mr. Beaubien and Ms. Cooper-Simmons:

The City of Antioch understands that the business operating as T's Internet Café falls under the regulations contained in Section 9-5.3816 of the Antioch Municipal Code relating to Mechanical and Electronic Games, attached in its entirety. Subsection (I), pasted below, specifically regulates locations of said businesses. The building at 522 West 2nd Street, Antioch (APN 066-051-006) is located with 1,000 feet of a public school. Therefore, a Use Permit for Mechanical and Electronic gaming cannot be accepted and the use cannot be approved.

- (I) It shall be unlawful for any proprietor of a mechanical or electronic game to cause, permit, or allow such game to be located, operated, or maintained to be operated within 1,000 feet of the nearest street entrance to or exit from any public playground or public or private school of elementary or high school grades, such distance to be measured from such entrance or exit in the most direct line or route on, along, or across such street or streets adjacent to such public playground or public or private school of elementary or high school grade. The restrictions established by this section shall not apply to businesses lawfully in existence and operating on August 26, 1982.

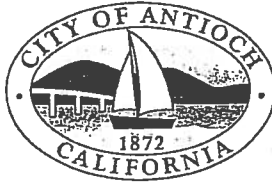
Staff has observed contractors working at the above address without a Building Permit. A Stop Work Notice was given today. A Building Permit will not be issued for T's Internet Café as the use is not permitted.

I can be reached at 779.7038 or twehrmeister@ci.antioch.ca.us should you have questions.

Sincerely,

Tina Wehrmeister
Community Development Director

AGS C93
065
JT



NOTICE OF VIOLATION OF THE ANTIOCH MUNICIPAL CODE
MECHANICAL OR ELECTRONIC GAMES

January 10, 2012

Patricia Simons
Cot on the Web
2333 Buchanan Road, #A
Antioch, CA 94509

Patricia Simons
3127 Sunflower Drive
Antioch, CA 94531

Parcel No. 076-432-014
Address: 2333 Buchanan Road, #A, Antioch, CA

The City of Antioch understands that the business operating as Cot on the Web falls under the regulations contained in Section 9-5.3816 of the Antioch Municipal Code relating to Mechanical and Electronic Games, attached in its entirety. Section 9-5.3816(C) states:

It shall be unlawful for any proprietor to install, operate, or maintain to be operated any mechanical or electronic game without first having obtained a use permit.

The City does not have record of your business obtaining a Use Permit. You are required to submit a Use Permit application by January 30, 2012. An application is attached for your convenience.

The City is providing this one-time opportunity to voluntarily abate the above violation(s) and public nuisance without the need for the City to issue Administrative Citations, which carry fines that range from \$100 to \$1,000 for every day the violation(s) are permitted to remain and/or take other action to compel your compliance.

Thank you in advance for your cooperation in abating these violation(s). If you have any questions, you may contact me at (925) 779-7038 or twehrmeister@ci.antioch.ca.us.

Sincerely,

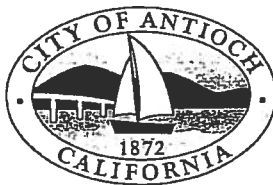
Tina Wehrmeister
Community Development Director

cc: June Patricia Smoot
Jeffery & Carolyn McClung

Community Development Department

P.O. Box 5007 • 200 H Street • Antioch, CA 94531-5007 • Tel: 925-779-7035 • Fax: 925-779-7034 • www.ci.antioch.ca.us

Handwritten notes: "ASB", "CAU", "Dute", "JZ"



NOTICE OF VIOLATION OF THE ANTIOCH MUNICIPAL CODE
MECHANICAL OR ELECTRONIC GAMES

James Hayes
Rapid Business Solutions
2962 Delta Fair Blvd
Antioch, CA 94509

January 18, 2012

Parcel No. 076-440-031
Address: 2962 Delta Fair Blvd., Antioch, CA

The City of Antioch understands that the business operating as Rapid Business Solutions falls under the regulations contained in Section 9-5.3816 of the Antioch Municipal Code relating to Mechanical and Electronic Games, attached in its entirety. Section 9-5.3816(C) states:

It shall be unlawful for any proprietor to install, operate, or maintain to be operated any mechanical or electronic game without first having obtained a use permit.

The City does not have record of your business obtaining a Use Permit. You are required to submit a Use Permit application by January 30, 2012. An application is attached for your convenience.

The City is providing this one-time opportunity to voluntarily abate the above violation(s) and public nuisance without the need for the City to issue Administrative Citations, which carry fines that range from \$100 to \$1,000 for every day the violation(s) are permitted to remain and/or take other action to compel your compliance.

Thank you in advance for your cooperation in abating these violation(s). If you have any questions, you may contact me at (925) 779-7038 or twehrmeister@ci.antioch.ca.us.

Sincerely,

Tina Wehrmeister
Community Development Director

cc: Chiu Family LLC

Handwritten notes: A87, C95, J3



The Law Offices of
Gagen, McCoy, McMahon, Koss
Markowitz & Raines
A Professional Corporation

William E. Gagen, Jr.
Gregory L. McCoy
Patrick J. McMahon
Charles A. Koss
Michael J. Markowitz
Richard C. Raines
Barbara Duval Jewell
Robert M. Fanucci
Allan C. Moore
Stephen T. Buehl
Amanda Bevins
Martin Lysons
Lauren E. Dodge
Sarah S. Nix
Ross Pytlik
Brian P. Mulry
Amanda Beck

February 6, 2012

Danville Office
279 Front Street
P.O. Box 218
Danville, California 94526-0218
Telephone: (925) 837-0585
Fax: (925) 838-5985

Napa Valley Office
The Offices At Southbridge
1030 Main Street, Suite 212
St. Helena, California 94574
Telephone: (707) 963-0909
Fax: (707) 963-5527

Of Counsel
Linn K. Coombs

Please Reply To:
Danville



By Email and Hand-Delivery
February 6, 2012
Board of Administrative Appeals
City of Antioch
Chair Frederick Rouse
c/o City Clerk
200 "H" Street
Antioch, CA 94509

Re: City Notice of Violation dated January 18, 2012
Rapid Business Solutions/2962 Delta Fair Boulevard, Antioch (APN 076-440-031)
Administrative Appeal

Dear Chair Rouse, Board members, and City Clerk:

Our office represents James Hayes, owner and operator of Rapid Business Solutions, located at 2962 Delta Fair Boulevard in Antioch (the Internet café), with regard to the City of Antioch's Notice of Violation dated January 18, 2012.

The City's Notice of Violation states that the business (Internet café) operating as Rapid Business Solutions falls within the City's Municipal Code at §9-5.3816, relating to "Mechanical and Electronic Games." The Notice of Violation states that the Internet café is therefore required to submit a Use Permit application by January 30, 2012.¹

¹ By email exchange, City staff extended the response date to February 6, 2012. Our office further held an informal meeting with Staff on February 2, 2012, and confirmed our Appeal or other response would be filed on/before February 6, 2012.

Handwritten initials: AGG, JTB, KT, and a circled '96'

Please consider this letter a Notice of Appeal of the administrative decision to take the proposed action. (We are filing this Notice of Appeal in anticipation of the City moving forward to take action as outlined in the City's Notice of Violation. If the City does not take such action, and/or if the City will work with us as outlined below, we will withdraw the Notice of Appeal.)

Mr. Hayes wants to work with the City and to continue to be a good neighbor to all adjacent businesses and the greater Antioch community. We understand and appreciate the City's desire to ensure that all businesses comply with the City's ordinances and do not create a nuisance, an increase in vandalism, or any similar land use impacts. We want to cooperate with the City on any such issue as it relates to the Internet café, including increased security, etc., and we will commit to working with the City.

Having stated the above, we hereby appeal the City's potential action (to require a Use Permit or to issue Administrative Citations), based on several grounds, including the following.

1. Applicability of §9-5.3816

The City's Municipal Code at §9-5.3816 is entitled "Mechanical or Electronic Games." Section (C) states as follows:

It shall be unlawful for any proprietor to install, operate or maintain any mechanical or electronic game without first having obtained a use permit . .

The City's Municipal Code defines "Mechanical or Electronic Games" in its Definitions section, at §9-5.203, as follows:

Any machine, apparatus, contrivance, appliance, or device which may be operated or played upon the placing or depositing therein of any coin, check, slug, ball, or any other article or device, or by paying therefore either in advance of or after use, involving in its use either skill or chance, including, but not limited to, a tape machine, pinball machine, bowling game machine, shuffleboard machine, marble game machine, horse racing machine, basketball game machine, baseball game machine, football game machine, electronic video game, or any other similar machine or device.

We note that §9-5.3816 as referenced above relates back to businesses operating as of August 26, 1982. At that time, there was no such thing as "Internet cafes" as they are known today. As set forth below, Internet cafes, Cybercafes and related businesses provide access to the Internet, which is recognized as an activity afforded special protection under the First Amendment.

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KZ

We do not believe the City's §9-5.3816 was intended to apply to the Internet, and we do not believe the business activities and facilities (including the computers and related facilities) of Mr. Hayes' Internet café fall within the definition of §9-5.203.

2. City Requirement for a Use Permit

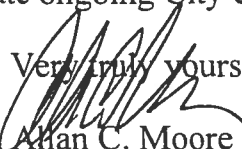
The City's Notice of Violation indicates it intends to require that the subject ongoing business (the Internet café) obtain a Use Permit. The City's Municipal Code at §9-5.2703 (B)(1) requires certain findings for the issuance of a Use Permit, including:

"That the granting of such [Use Permit] will not be detrimental to the public health or welfare ..."

California Appellate cases and authorities state that the discretion of local agencies to require an applicant to obtain a Use Permit is severely limited when First Amendment rights are implicated. This is particularly the case for businesses which provide access to the Internet.

In *Vo v. City of Garden Grove* (115 Cal. App. 4th 425 (2004)), the City of Garden Grove adopted an emergency interim ordinance and a moratorium against new CyberCafes. The ordinance required existing Cybercafes to apply for a Use Permit by a certain date. *The Court held such Use Permit requirement to be invalid.* In its decision, the Court noted that the City's Use Permit ordinance gave the City broad discretion to deny the Use Permit if the use impacts the "public health, safety or general welfare" (*the same criteria in the City of Antioch's ordinance*). The Court found that Garden Grove's Use Permit process gave the City too much discretion to restrict First Amendment rights.

For these and related reasons, we respectfully believe that the City should not impose a Use Permit requirement on Mr. Hayes' existing Internet cafe business. However, as noted above, we do want to work with the City with regard to reasonable steps we can agree on to address legitimate ongoing City concerns.

Very truly yours,

Allan C. Moore

cc: Tina Wehrmeister
Director of Community Development Department

Lynn Tracy Nerland
City Attorney

James Hayes

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GAGEN, McCOY, McMAHON, KOSS, MARKOWITZ & RAINES

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
279 FRONT STREET
DANVILLE, CA 94526
PHONE (925) 837-0585



90-2267-1211

2/6/2012

10354

PAY Fifty & No/100 Dollars

50.00

TO THE
ORDER
OF

City of Antioch

GAGEN, McCOY, McMAHON, KOSS, MARKOWITZ & RAINES
TWO SIGNATURES REQUIRED OVER \$1,000.00 DOLLARS

AUTHORIZED SIGNATURE

⑈ 103546⑈ ⑆ 21122676⑆ 153453447705⑈

CA9
AAT 97T
K4

1/23/11

I am appealing letter sent to Cot On The Web 2223a Buchanan rd Antioch CA 94509. It states that I need to get an arcade permit for the sale of internet time I am not a arcade in any way and do not sell anything but internet time.

Any questions

Patricia Simmons

925-209-8332

3127 Sunflower
Antioch CA 94531

Aeventtoremember@Comcast.net

CITY OF ANTIOCH
925-779-7055

RECH: 0047860 1/24/2012 12:13 PM
OPER: FV3 TERM: 003
REF#:

TRAN: 132.0000 Other Sv Chg Copies
APPEAL FOR COT ON THE WEB
Other Service Chrg 50.00CR

TENDERED: 50.00 CASH
APPLIED: 50.00-

CHANGE: 0.00

 ORIGINAL

RECEIVED

JAN 24 2012

CITY OF ANTIOCH
CITY CLERK

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1-12-12

To: The city of Antioch

I Am Appealing letter Received 1-5-12
by Tina Wehmeister stating my sales of
internet time/Phone cards ARE electronic
Games. T's internet cafe Does NOT sell
Any kind of Game At All. I Do NOT
feel A Electronic Game permit is needed
for T's internet cafe

Thank
you

Patricia Simmons

T's internet cafe

925-209-8332

RECEIVED

JAN 12 2012

CITY OF ANTIOCH
CITY CLERK

CITY OF ANTIOCH

925-779-7055

RECH: 00475867 1/12/2012 10:29 AM

OPER: FV3 TERM: 003

REF#:

TRAN: 132.0000 Other Sv Chg-Copies

PATRICIA SIMMONS

Other Service Chrg 50.00CR

TENDERED: 60.00 CASH

APPLIED: 50.00-

CHANGE: 10.00

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ATTACHMENT "C"

ORDINANCE NO. 2056-C-S

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH EXTENDING AN INTERIM URGENCY ZONING ORDINANCE PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65858 PROHIBITING THE ISSUANCE OF PERMITS, LICENSES OR APPROVALS FOR CONSTRUCTION, ESTABLISHMENT OR OPERATION OF COMPUTER GAMING AND INTERNET ACCESS BUSINESSES WITHIN THE CITY ON AN INTERIM BASIS PENDING CONSIDERATION OF AMENDMENTS TO TITLE 9 OF THE ANTIOCH MUNICIPAL CODE

The City Council of the City of Antioch does ordain as follows:

SECTION 1. Interim Urgency Zoning Ordinance. This ordinance is adopted pursuant to the authority of Section 65858 of the Government Code of the State of California, the Antioch City Municipal Code and applicable laws.

SECTION 2. Findings. The Antioch City Council hereby finds, determines and declares as follows:

A. The City of Antioch holds the right to make and enforce all laws and regulations not in conflict with the general laws, and the City holds all rights and powers established by state law.

B. The City has received and anticipates additional requests for the construction, establishment and operation of Computer Gaming and Internet Access Businesses (as defined herein) within the City. However, the provisions of the City Municipal Code that may regulate the construction, operation and establishment of Computer Gaming and Internet Access Businesses in the City are inadequate and need review, study, and revision. The current provisions also fail to fully take into account the impacts related to the location and manner of construction, establishment and operation of Computer Gaming and Internet Access Businesses, and the related public health, safety, and welfare concerns, including but not limited to the impacts they may have on parking, surrounding uses, and the community.

C. Computer Gaming and Internet Access Businesses often have local school students and minors as their target market, and thereby may encourage the assembly of significant numbers of minors without supervision by parents or guardians. Further, given concerns about attendance at the Antioch Unified School District such congregation of students should not be allowed during regular school hours.

D. While the City's codes do regulate mechanical or electronic games, the computer stations at Computer Gaming and Internet Access Businesses are used in a manner that may be considered different from coin-operated video game machines, and therefore have different impacts. There is generally a charge for use of the computer station, and many users may occupy a particular station for multiple consecutive hours, creating unknown impacts on the surrounding area and businesses, such as observed

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lines of individuals waiting to access these businesses. Some Computer Gaming and Internet Access Businesses may stage late-night gaming sessions, which may encourage violation of the City's curfew ordinance or create and promote other late-night noise and related impacts on the surrounding community. Recently there have been Computer Gaming and Internet Access Businesses that promote "sweepstakes gaming" which encourages game playing that may provide chances to be awarded prizes. The extended use of such facilities by multiple persons waiting for a limited number of computer stations could contribute to increased detrimental effects on the commercial area where located and the surrounding residential area.

E. The City Council of the City of Antioch is also concerned with the increased calls for service, increasing reports of violent criminal behavior and related detrimental neighborhood effects associated with Computer Gaming and Internet Access Businesses.

F. The City of Antioch, as well as neighboring cities, has experienced criminal activity associated with Computer Gaming and Internet Access Businesses, including incidents involving robbery, illegal drug use and sales, burglary, assaults, public intoxication, vandalism and property damage and loitering. It is also known that other cities have experienced significant gang-related activities and prostitution occurring at these Computer Gaming and Internet Access Businesses. For example, the Antioch Police Department has documented a significant increase in service related calls involving a variety of crimes in these businesses and within the neighborhoods adjacent to Computer Gaming and Internet Access Businesses and include the representational incidents below as findings as follows and as further described in attachments to the staff report:

1. On April 13, 2010, there was a call for service from T's Internet Café at 1836 A Street because of a fight over someone owing someone money and on July 23, 2010 a call for service regarding another fight.
2. At T's Internet Café at 1653 A Street on September 11, 2010, there was a call for service regarding possible assault, drug violations and carjacking. On November 18, 2010, a male robbed money from the business with a sawed-off shot gun and shot at one of the workers. On February 2, 2011, there was a call for service regarding drug selling. On July 21, 2011, there was a report of a car theft and then a fight broke out.
3. At the Internet Room at 2962 Delta Fair Boulevard, on January 28, 2012, there was a report of a stolen vehicle.
4. At T's Internet Café at 1908 A Street on August 20, 2011, someone was throwing things at the business and threatening to harm the employees.
5. While at Computer Gaming and Internet Access Businesses in Antioch, individuals have been arrested for robbery, narcotics violations, carjacking and other crimes, as well as on outstanding warrants. While some of

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these crimes may have occurred elsewhere, it does show a propensity for individuals who engage in criminal activity to patronize Computer Gaming and Internet Access Businesses.

6. At 2962 Delta Fair Boulevard, calls for service at that location and at neighboring businesses have increased from 109 to 259 over a twelve month period since the Internet Room started operating.
7. At 1836 A Street, before T's Internet Café opened there were 157 calls for service from that location and neighboring businesses over a 7-month period from February 1, 2009 through August 30, 2009. While T's Internet Café was operating at 1836 A Street, calls for service increased to 240 over a 7-month period from February 1, 2010 through August 30, 2010. When T's Internet Café closed at that location, calls for service from that location and neighboring businesses went back down to 158 calls for service over the 7-month period from February 1, 2011 through August 30, 2011, almost identical to the rates before T's Internet Café opened.

G. Without the enactment of this Ordinance, multiple applicants could quickly receive entitlements which would allow additional Computer Gaming and Internet Access Businesses that pose a threat to the public health, safety, and welfare. The City Council hereby determines that the Municipal Code is in need of updating to protect the public against health, safety, and welfare dangers caused by Computer Gaming and Internet Access Businesses. In particular, although the City Council adopted Urgency Ordinance No. 2053 on February 28, 2012 and Ordinance No. 2054-C-S on March 13, 2012 adding Chapter 11 of Title of the Antioch Municipal Code regarding licensing procedures and certain operational regulations, the current provisions do not fully take into account the impacts related to the location, concentration and manner of construction, establishment and operation of Computer Gaming and Internet Access Businesses, and the related public health, safety, and welfare concerns, including but not limited to the impacts they may have on parking, surrounding uses, and the community that could be addressed with a zoning ordinance.

The City requires additional time to prepare, evaluate and adopt reasonable regulations, including land use regulations through a zoning ordinance, regarding the construction, placement and operation of Computer Gaming and Internet Access Businesses so that such regulations are applied in a nondiscriminatory manner.

H. In order to prevent the frustration of these studies and the implementation of new regulations, the public interest, health, safety, and welfare require immediate enactment of this Ordinance. The absence of this Ordinance would impair the orderly and effective implementation of contemplated Municipal Code amendments, and any further authorization of these uses within the City during the period of the interim zoning regulations may be in conflict with or may frustrate the contemplated updates and revisions of the Municipal Code.

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I. Based on the foregoing, the City finds that there is a current and immediate threat to the public health, safety, or welfare and that this Ordinance is necessary in order to protect the City from the potential effects and impacts of Computer Gaming and Internet Access Businesses in the City, potential increases in crime, impacts on parking availability in the business areas of the City, the aesthetic impacts to the City, and other similar or related effects on property values and the quality of life in the City's neighborhoods.

J. The City Council further finds that this interim zoning regulation is a matter of local and City-wide importance and is not directed towards any particular business that currently seeks to construct or operate a Computer Gaming and Internet Access Business.

K. The City Council finds that this Ordinance is authorized by the City's police powers. The City Council further finds that the length of the interim zoning regulations imposed by this Ordinance will not in any way deprive any person of rights granted by State or federal laws, because the interim zoning regulation is short in duration and essential to protect the public health, safety and welfare.

L. City staff has provided a staff report indicating that additional time is needed to study these complicated issues and noticed a public hearing for April 10, 2012 for the City Council's consideration of an extension of the temporary moratorium.

SECTION 3. Interim Regulations. The following provisions are hereby adopted as interim zoning standards pertaining to the review or approval of any entitlements or the issuance of any permits or licenses pursuant to the Antioch Municipal Code for Computer Gaming and Internet Access Businesses. The approval of any entitlements or the issuance of any permit or license in the City in conflict with these provisions is expressly prohibited:

- A. **Restricted Activities.** In accordance with the authority granted the City of Antioch under Article XI, Section 7 of the California Constitution and California Government Code Section 65858, the moratorium adopted by the City Council on February 28, 2012 is extended for 10 months and 15 days from the date of this ordinance. No permit or any other applicable license or entitlement for use, including, but not limited to, the issuance of a business license, business permit, building permit, conditional use permit, or zoning text amendment shall be approved or issued for the establishment or operation of a Computer Gaming and Internet Access Business in the City of Antioch. Additionally, Computer Gaming and Internet Access Business are hereby expressly prohibited in all areas and zoning districts of the City. The two existing Computer Gaming and Internet Access Businesses may continue to operate at their current locations: Internet Room at 2962 Delta Fair Boulevard and Cot on the Web at 2333 Buchanan Road. No expansion of the number of computer terminals is allowed. Expansion of tenant floor space is permitted in order

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to allow compliance with the licensing procedures and regulations in Title 5, Chapter 11 of the Antioch Municipal Code.

B. Definitions. In addition to the definitions contained in the City's Municipal Code, the following words and phrases shall, for the purposes of this Ordinance, be defined as follows, unless it is clearly apparent from the context that another meaning is intended. Should any of the definitions be in conflict with the current provisions of the Municipal Code, the following definitions shall prevail:

1. "Computer Gaming and Internet Access Business" shall mean an establishment that provides more than four (4) computers or other electronic devices for access to the world wide web, internet, e-mail, video games or computer software programs which operate alone or are networked (via LAN, WAN or otherwise) or which function as a client/server program, and which seeks compensation, in any form, from users. Computer Gaming and Internet Access Business is synonymous with a personal computer ("PC") café, internet café, cyber café, sweepstakes gaming facilities, business center, internet sales business and internet center, but does not include a Public Use or Internet Learning Center as defined herein.

2. "Public Use or Internet Learning Center" shall mean an establishment that provides computer access which is operated by the City of Antioch, a school district, a library, a college district, or a private institution of learning which provides classes in computer instruction or a non-profit organization which does not receive compensation in any form other than school tuition.

SECTION 4. CEQA. This ordinance is not a project within the meaning of Section 15378 of the State CEQA (California Environmental Quality Act) Guidelines, because it has no potential for resulting in physical change in the environment, directly or ultimately. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guideline section 16061 (b) (3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

SECTION 5. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

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SECTION 6. Effective Date. This interim ordinance shall take effect immediately upon its adoption and shall continue in effect for 10 months and 15 days from the date of its adoption by not less than a four-fifths vote of the Antioch City Council, unless superseded by a subsequent ordinance of the City Council.

SECTION 7. Report of Council. Ten days prior to the expiration of this Ordinance, or any extension thereof, this Council shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of this ordinance, or any extension thereof.

SECTION 8. Declaration of Urgency. This ordinance is hereby declared to be an urgency measure necessary for the immediate protection of the public health, safety and welfare. This Council hereby finds that there is a current and immediate threat to the public health, safety and welfare. The reasons for this urgency are declared and set forth in Section 2 of this Ordinance and are incorporated herein by reference.

SECTION 9. Publication; Certification. The City Clerk shall certify to the adoption of this Ordinance and cause same to be published in accordance with State law.

* * * * *

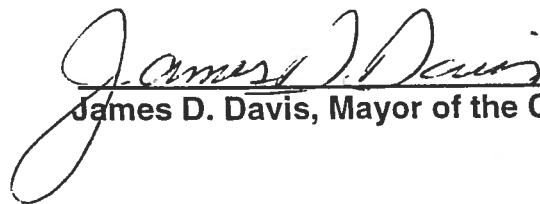
I HEREBY CERTIFY that the foregoing Ordinance was introduced and adopted as an urgency ordinance pursuant to the terms of California Government Code Section 65858 at a regular meeting of the City Council of the City of Antioch on the 10th day of April, 2012, by the following vote:

AYES: Council Members Kalinowski, Harper, Rocha, Agopian and Mayor Davis

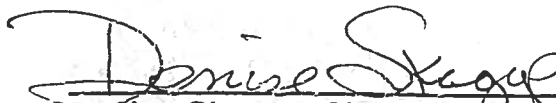
NOES: None

ABSENT: None

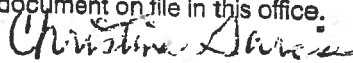
ABSTAIN: None


James D. Davis, Mayor of the City of Antioch

ATTEST:


Denise Skaggs, City Clerk of the City of Antioch

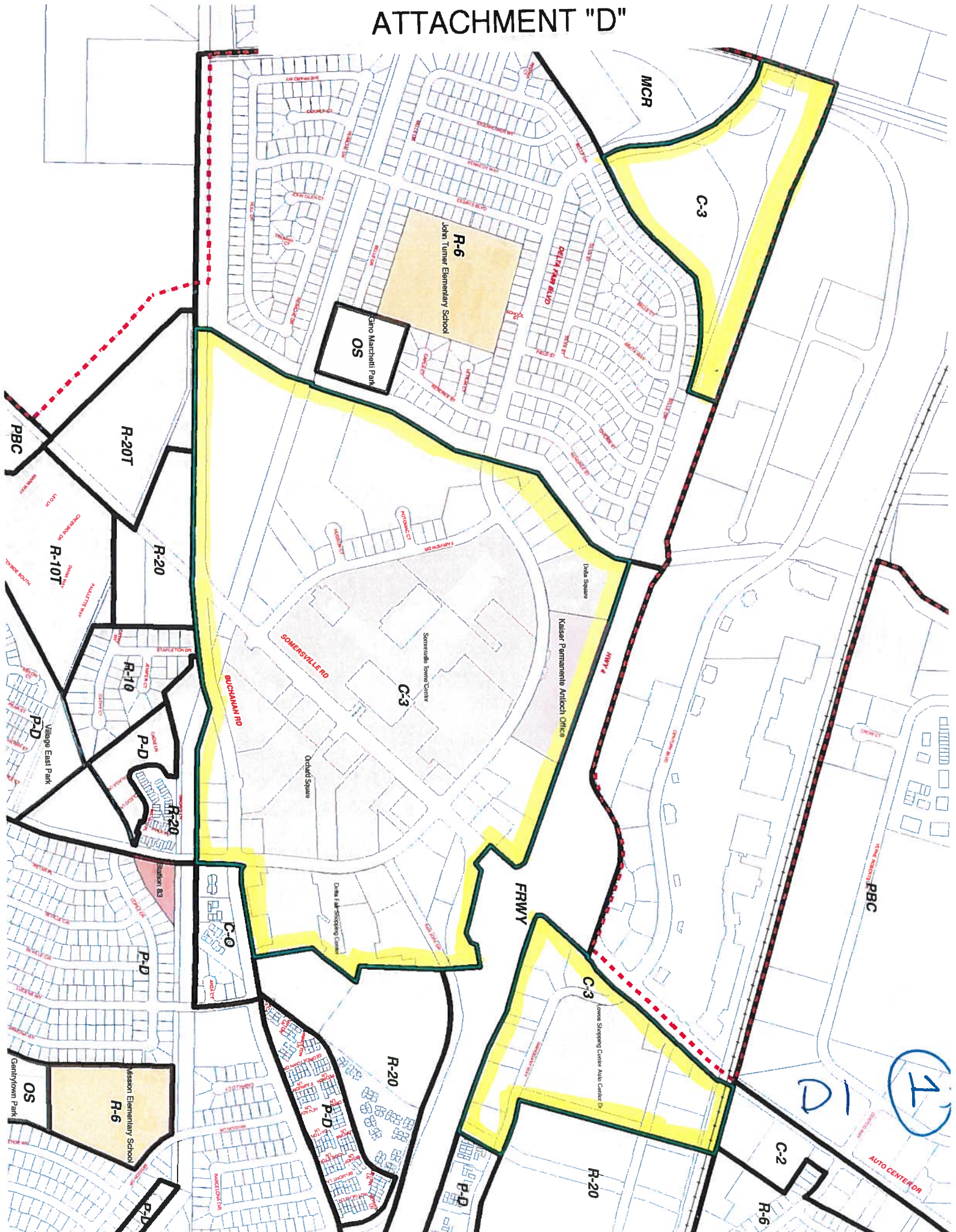
I certify that this is a true copy of a document on file in this office.

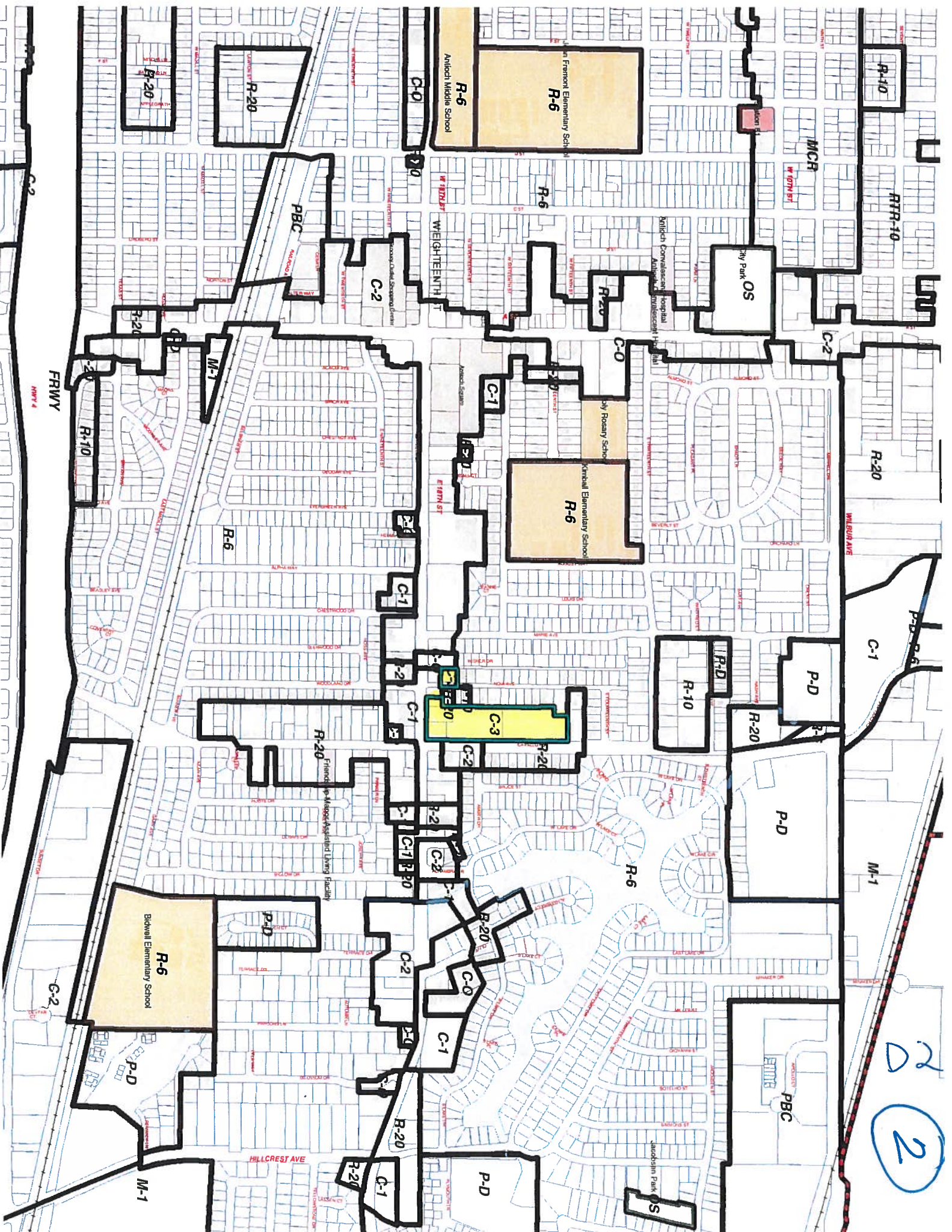

Christine Garcia
City Clerk
City of Antioch, California

SEAL

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ATTACHMENT "D"





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STAFF REPORT TO THE CITY COUNCIL

DATE: Regular Meeting of February 10, 2015
TO: Honorable Mayor and Members of the City Council
SUBMITTED BY: Lynn Tracy Nerland, City Attorney *LTN*
SUBJECT: Ordinances to Address Bingo Operations and Zoning

RECOMMENDED ACTION: It is recommended that the City Council hold a public hearing and take the following actions before the moratorium expires:

1. Approve by motion the reading of the ordinances by title only;
2. Introduce the Ordinance amending Chapter 15 to Title 5 of the Antioch Municipal Code in its entirety to establish regulations for the operation of bingo games (Attachment A); and
3. Introduce the Ordinance adding Section 9-5.3838 to the Antioch Municipal Code to establish zoning regulations for the operation of bingo games (Attachment B). The Planning Commission recommended approval of this ordinance on February 4, 2015 by a vote of 4-0 with one Commissioner absent and two vacant positions.

STRATEGIC PURPOSE

This action addresses the following goals in the Citywide Strategic Plan:

Long Term Goal A: Crime Reduction. Appropriate location and operational requirements for Bingo uses will address community crime impacts discussed in the attached moratorium ordinance and staff reports (Attachments C and D).

Long Term Goal G: Planning, Entitlements and Permitting. These actions establish appropriate requirements for location and entitlement for Bingo operations.

Long Term Goal L: City Administration. Provide exemplary City administration.
Strategy L-4: Implement City Council policies and direction. The recommended actions implement the City Council's direction to study this matter and propose appropriate land use regulations.

Long Term Goal M: Legal Services Strategy M-1: Effectively and efficiently provide legal services in support of the City's policies, procedures and initiatives.

FISCAL IMPACT

Other than the costs to prepare the Ordinances, it is not expected that these Ordinances regarding bingo operations will have a direct fiscal impact on the City since bona fide non-profits would be supported. However, if bingo operations are not appropriately regulated, there can be impacts to the community requiring police resources. This is particularly true with the sole use, possibly 24/7 bingo hall operations that raised more of the specter of large-scale gambling operations not unlike those recently addressed by the City with computer gaming at so-called "internet café's".

DISCUSSION

On July 22, 2014, the City Council adopted an urgency ordinance establishing a temporary moratorium on the issuance of permits, licenses, or approvals for construction, establishment or operation of new bingo halls or bingo operations, or the expansion of current bingo operations. The City Council extended the moratorium on August 26, 2014 (Attachment C). The staff report for the August 26, 2014 City Council meeting (Attachment D) also includes the staff report and attachments for the July 22, 2014 City Council meeting.

The staff reports and ordinances provide more details regarding the issues and need to establish regulations to address public safety, health and welfare issues raised by bingo operations. Although small bingo games have occurred on a periodic basis for many years, these games were clearly of a smaller-scale, ancillary to other uses such as churches or the senior center, and not generating complaints. However, the City began receiving applications for the establishment of sole use, possibly 24/7 bingo hall operations that raised the specter of large-scale gambling operations. It became clear that the City's existing ordinance on bingo games needed to be updated to track the California Penal Code restrictions on bingo operations and to address these larger, sole-use, possibly 24/7 bingo hall operations. Since then, "It Takes a Village" withdrew its application and the other applicant has not pursued its application for a sole use, continual bingo hall. However, the possibility exists of future applications.

Accordingly, staff is proposing two ordinances to address bingo operations: 1) a zoning ordinance, which the Planning Commission reviewed at its meeting on February 4, 2015 that focuses on the location of bingo operations and the requirement that the use be ancillary to a nonprofit use; and 2) a "police power" ordinance that focuses on hours of operation, nonprofit nature of the operator, amount of prizes, minors, etc.

There are two challenges in drafting both the regulatory and zoning ordinances:

1. The desire not to penalize the small-scale, clearly ancillary bingo games that have been occurring at churches (i.e. religious assemblies), schools and the senior center without complaint as successful fundraising endeavors for legitimate nonprofits.
2. The lack of staffing to implement extensive permit procedures whether a use permit through the Community Development Permit or some kind of licensing scheme through the Police Department.

Accordingly, the two proposed ordinances attempt to allow the clearly ancillary bingo games to operate without obtaining additional permits, as long as they are complying with State and local laws, but then to prohibit expansions in use and bingo halls that exist just to run bingo games on a continual basis.

“Regulatory” Ordinance

The City’s existing bingo ordinance was adopted in 1980 and just generally allows any bingo games to be conducted that are authorized by the California Penal Code. The City’s existing ordinance does not strictly comply with the provisions of the Penal Code and does not address the more recent concept of remote caller bingo.

The California Penal Code regulates bingo games and allows cities to adopt an ordinance to allow bingo games as long as two basic rules are met:

- The games may only be conducted by certain categories of tax-exempt organizations (e.g. labor organizations, fraternal orders, chamber of commerce, religious corporations, veterans’ organizations).
- The receipts from the games may be used only for charitable purposes.

In addition, under State law, bingo operations are further limited:

- It is a misdemeanor for any person to receive or pay a profit, wage, or salary from any bingo game with the exception that security personnel employed by the organization conducting the bingo game may be paid from the revenues of the bingo games.
- Authorized organizations may only conduct games “on property owned or leased by” the organization, or on property “whose use is donated to the organization” and which property is used by the organization for office space or for the purposes for which the organization was organized.

The State further restricts remote caller bingo, a game in which the numbers or symbols on randomly drawn plastic balls are announced by a natural person present at the site at which the live game is conducted, but the game is transmitted through audio and video technology to remote sites (somewhat akin to off-track betting).

The recent applications for sole use, continual bingo operations may not have been meeting these State restrictions, as well as raising other possible issues including increased crime (including robbery, illegal drug use and sales, burglary, assaults, loan sharking and prostitution); increased juvenile truancy; decreased parking availability due to the extended time that patrons of these uses stay at the location; and other similar effects on property values and the quality of life in Antioch that other jurisdictions have experienced with these uses. These are the kinds of impacts that occur whenever individuals have large amounts of money and are similar to concerns raised with the recent computer gaming operations (sometimes called “sweepstakes games”) that the State has recently banned as illegal gambling.

The proposed regulatory ordinance (i.e. regulating the conduct of bingo operations) tracks State law in that primarily only nonprofit organizations can conduct bingo games; no staff can be paid from the bingo proceeds other than security personnel; and the proceeds must be used for charitable purposes. In addition, the proposed ordinance:

- Limits the maximum prize to \$500;
- Prohibits any other entity from having a financial interest in the bingo game;
- Does not allow minors to participate;
- Does not allow intoxicated persons to participate;
- Limits the games to no more than two days per week and only one annual tournament of not more than three consecutive days;
- Limits the hours of operation to 9:00 a.m. to 11:00 p.m. and no more than 4 consecutive hours;
- No remote caller bingo;
- No bingo operations at a card room or computer gaming and internet access business; and
- Allows the Police Chief to immediately suspend operation of any bingo game.

Zoning Ordinance

The proposed zoning ordinance (Attachment B) was reviewed by the Planning Commission on February 4, 2015 and recommended approval of this ordinance on February 4, 2015 by a vote of 4-0 with one Commissioner absent and two vacant positions. No members of the public spoke for or against the ordinance. The proposed ordinance:

- generally allows bingo games in non-residential zoning districts, but only if the use is 1) located ancillary to a validly located nonprofit; 2) on property that the nonprofit owns or leases; and 3) the use complies with State laws, the Antioch Municipal Code, and the Building Code; and
- prohibits bingo games in residential zoning districts unless the use is: 1) located ancillary to validly located nonprofit religious assemblies or schools that are allowed in certain locations in a residential district pursuant to Antioch Municipal Code section 9-5.3832; 2) on property that the religious assembly or school owns or leases; and 3) the use complies with State laws, the Antioch Municipal Code, and the Building Code.

Options

If the majority of the City Council desires a permit process for land use (through the Community Development Department) and/or regulatory license process (through the Police Department), then staff could be directed to come back with additional regulations. However, it is recommended that the Council at least adopt the proposed ordinances because the moratorium will be expiring in July. Further, it was the Police Department that recommended against a license process because of the lack of Police staff to implement it.

Again the existing, ancillary bingo operations have not raised concerns at this point, assuming that they are operating in compliance with the California Penal Code. The goal with both ordinances is to make sure that the City has the “tools in the toolbox” should another application be presented for a stand-alone, continual bingo operation or existing bingo operations seek to expand or operate beyond the constraints of State and local laws.

ATTACHMENTS

- A. Proposed Regulatory Ordinance
- B. Proposed Zoning Ordinance
- C. Ordinance No. 2093-C-S adopted on August 26, 2014 extending an interim urgency zoning ordinance regarding bingo halls or operations
- D. Staff report for the City Council meeting on August 26, 2014, which includes the staff report for the City Council meeting on July 22, 2014
- E. Staff report for the Planning Commission meeting on February 4, 2015

ORDINANCE NO.**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH
AMENDING CHAPTER 15 OF TITLE 5 OF THE ANTIOCH MUNICIPAL CODE
REGARDING BINGO GAMES**

The City Council of the City of Antioch does ordain as follows:

SECTION 1. The Antioch City Council hereby finds, determines and declares as follows:

A. The City of Antioch may make and enforce all laws and regulations not in conflict with the general laws, and the City holds all rights and powers established by state law.

B. On July 22, 2014, pursuant to Government Code sections 65858, the City Council adopted Ordinance No. 2091-C-S to establish a 45-day moratorium on the issuance of any new permit, license or other approvals for new or expanded bingo games or operations within the City, which was extended on August 26, 2014, pursuant to Ordinance No. 2093-C-S.

C. The City of Antioch is aware that other cities, including Pleasant Hill, Concord and Fairfield, have experienced land use impacts and/or criminal activity associated with bingo halls and/or bingo operations, including incidents involving assaults, theft, prostitution, loan-sharking and drug dealing. These impacts are set forth in more detail in the staff report and attachments provided to the City Council at the July 22, 2014 and August 26, 2014 meetings (<http://www.ci.antioch.ca.us/CityGov/agendas/default.asp>). These impacts have particularly occurred at facilities that appear only to exist for the purpose of running continual bingo games, as distinguished from occasional bingo games operated as an ancillary or occasional use at an established non-profit location.

D. Under the California Constitution and Penal Code, bingo games are illegal lotteries unless conducted in strict conformance with the detailed requirements in the Penal Code.

E. Based on the foregoing, the City finds that this Ordinance is necessary in order to protect the City from the potential effects and impacts of bingo halls and/or bingo operations in the City, potential increases in crime, impacts on parking availability in the business areas of the City, the aesthetic impacts to the City, and other similar or related effects on property values and the quality of life in the City's neighborhoods.

SECTION 2. Chapter 15 of Title 5 of the Antioch Municipal Code is hereby amended in its entirety to read as follows:

Chapter 15 BINGO GAMES

Sections:

- 5-15.01 Bingo defined.
- 5-15.02 Eligible organizations.
- 5-15.03 Maximum amount of prize.
- 5-15.04 Profits to be kept in separate fund or account.
- 5-15.05 Financial interest in operator.
- 5-15.06 Exclusive operation by permittee.
- 5-15.07 Open to public.
- 5-15.08 Attendance limited to occupancy capacity.
- 5-15.09 Game only on permittee's property.
- 5-15.10 Minors not to participate.
- 5-15.11 Intoxicated persons not to participate.
- 5-15.12 Days and hours of operation.
- 5-15.13 Participant must be present.
- 5-15.14 Remote Caller Bingo Prohibited
- 5-15.15 No other Card Room or Computer Gaming Operations
- 5-15.16 Conduct of Bingo Game in Violation of Law; Suspension
- 5-15.17 Public nuisance—Abatement.
- 5-15.18 Violation—Penalty.

5-15.01 **Bingo defined.**

For the purpose of this chapter, "bingo" means a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card that conforms to numbers or symbols selected at random. The game of bingo shall include cards having numbers or symbols that are concealed and preprinted in a manner providing for distribution of prizes. The winning cards shall not be known prior to the game by any person participating in the playing or operation of the bingo game.

5-15.02 **Eligible organizations.**

Organizations that are exempt from the payment of the bank and corporation tax pursuant to sections 23701(a), 23701(b), 23701(d), 23701(e), 23701(f), 23701(g), 23701(k), 23701(w) or 23701(1) of the Revenue and Taxation Code and mobile home park associations, senior citizen organizations and charitable organizations affiliated with a school district, and who meet the other qualifications set forth in this chapter are eligible to conduct bingo games in the city pursuant to the provisions of Section 326.5 of the California Penal Code and the provisions of this chapter ("Eligible Organization").

5-15.03 Maximum amount of prize.

The total value of prizes awarded during the conduct of any bingo games shall not exceed five hundred dollars (\$500.00) in cash or kind, or both, for each separate game which is held.

5-15.04 Profits shall be kept in a separate fund or account.

All profits derived from a bingo game shall be kept and used in the manner prescribed by Section 326.5 of the Penal Code and shall principally be expended for charitable purposes within the City. The Eligible Organization shall keep full and accurate records of the income received and expenses disbursed in connection with its operation, conduct, promotion, supervision and all other phases of bingo games authorized by this chapter. The City, by and through its authorized officers, shall have the right to examine and audit such records at any reasonable time and the Eligible Organization or any operator of a bingo game shall fully cooperate with the City by making such records available.

5-15.05 Financial interest in operator.

No individual, corporation, partnership or other legal entity except the Eligible Organization that is operating the bingo game shall hold any financial interest in the conduct of any bingo game.

5-15.06 Exclusive operation.

A bingo game shall be operated, conducted and staffed only by members of the Eligible Organization operating the bingo game. Such members shall not receive a profit, wage, salary or income of any kind from any bingo game. The Eligible Organization may, however, employ security personnel to provide security services at bingo games and pay for such personnel from game proceeds. Only the Eligible Organization shall operate such game and participate in the promotion, supervision or any other phase of such game.

5-15.07 Open to public.

All bingo games shall be open to the public, not just to the members of the Eligible Organization operating the bingo games.

5-15.08 Attendance limited to occupancy capacity.

Notwithstanding that bingo games are open to the public, attendance at any bingo game shall be limited to the occupancy capacity of the room in which such game is conducted as determined by the Contra Costa Fire District and building department of the City. An Eligible Organization operating a bingo game shall not reserve seats or space for any person, nor allow any other person or player to reserve seats or a space for any person.

5-15.09 Game only on operator's property.

An Eligible Organization operating a bingo game shall conduct the bingo game only on property that it owns or leases, or on property whose use is donated to the organization and the property is used by the organization for an office or for performance of the purposes for which the organization is organized. Nothing in this section shall be construed to require that the property owned or leased by or donated to the organization be used or leased exclusively by such organization.

5-15.10 Minors not to participate.

No person under the age of eighteen (18) years shall be allowed to participate in any bingo game.

5-15.11 Intoxicated persons not to participate.

No person who is obviously intoxicated shall be allowed to participate in a bingo game.

5-15.12 Days and hours of operation.

A. Each Eligible Organization may conduct bingo games no more than: two days per calendar week; and for one annual event conducted for not more than a three (3) consecutive day period.

B. No location shall have bingo games more than: two days per calendar week; and for one annual event conducted for not more than a three (3) consecutive day period.

C. No bingo game shall be conducted before nine a.m. or after eleven p.m., nor longer than a four (4) consecutive hour period.

5-15.13 Participant must be present.

No person shall be allowed to participate in a bingo game unless the person is physically present at the time and place during which the bingo game is being conducted.

5-15.14 Remote Caller Bingo Prohibited.

Remoter caller bingo, as defined in Penal Code section 326.3, or any other bingo game substantially similar to remote caller bingo as defined in the Penal Code (as determined by the Chief of Police in his or her reasonable discretion) is expressly prohibited in the city.

5-15.15 No other Card Room or Computer Gaming Operations.

No location where bingo games are conducted shall also have Card Room operation or Computer Gaming and Internet Access Business operation, as defined in the Municipal Code. No Eligible Organization conducting a bingo game shall also conduct or be involved in the operation of a Card Room Card or Computer Gaming and Internet Access Business, as defined in the Municipal Code.

5-15.16 Conduct of Bingo Game in Violation of Law; Suspension.

A. In addition to any other remedies or penalty provided by law, if the Chief of Police or designee finds that a bingo game is being conducted in violation of any applicable law, including without limitation, the provisions of this chapter, the Chief of Police shall have the authority to order the operator to immediately cease and desist any further operation of any bingo game.

B. The Chief of Police shall give notice to the operator of the bingo game and property owner of the violation and issue an order of suspension ("order"). The order shall state the effective date of such suspension together with a statement of reasons for the suspension. The operator or owner shall have ten (10) calendar days from the date of service of the order within which to file an appeal of the Chief of Police's decision to the City Manager. The decision of the City Manager shall be final. If for any reason the operator or owner fails to file a timely appeal, the order shall be deemed, for all purposes, to be an order of revocation and shall be final and conclusive subject only to judicial review.

5-15.17 Public nuisance—Abatement.

Any person who conducts a bingo game in the city in violation of State law or this Chapter, shall, in addition to any other penalty or remedies for such conduct, be deemed to be conducting a public nuisance on the property where the same is located. The conduct of such a game shall be deemed for all purposes to be a continuing public nuisance and shall be subject to abatement, administrative citations or other remedies pursuant to the Municipal Code. City may elect to file a civil action to abate such a public nuisance and if the court determines that a public nuisance exists, the City shall be awarded its attorneys' fees and other costs incurred with reference to such civil action. Contemporaneously with such a civil action, criminal proceedings may also be filed against the person or persons conducting bingo games without there being a valid permit in effect.

5-15.18 Violation—Penalty.

Any person operating or conducting a bingo game in violation of the Chapter shall be deemed guilty of a misdemeanor.

SECTION 3. CEQA. This ordinance is not a project within the meaning of Section 15378 of the State CEQA (California Environmental Quality Act) Guidelines, because it has no potential for resulting in physical change in the environment, directly or ultimately. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guideline section 16061 (b) (3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

SECTION 4. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 5. Effective Date. This Ordinance shall take effect thirty (30) days after adoption as provided by Government Code Section.

SECTION 6. Publication; Certification. The City Clerk shall certify to the adoption of this Ordinance and cause same to be published in accordance with State law.

* * * * *

I HEREBY CERTIFY that the foregoing Ordinance was introduced on _____ 2015 and adopted at a regular meeting of the City Council of the City of Antioch on _____, 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Wade Harper, Mayor of the City of Antioch

ATTEST:

Arne Simonsen, City Clerk of the City of Antioch

ORDINANCE NO.**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH
ESTABLISHING ZONING REGULATIONS FOR BINGO OPERATIONS**

SECTION 1. Findings. The Antioch City Council hereby finds, determines and declares as follows:

A. The City of Antioch holds the right to make and enforce all laws and regulations not in conflict with general laws, and the City holds all rights and powers established by state law.

B. On July 22, 2014, pursuant to Ordinance No. 2091-C-S, the City Council adopted an interim urgency zoning ordinance prohibiting the issuance of permits, licenses or approvals for construction, establishment or operation of any new bingo halls or bingo operations, or the expansion of current bingo operations, which was extended by the City Council on August 26, 2014 pursuant to Ordinance No. 2093-C-S, pursuant to findings regarding a current and immediate threat to the public health, safety and welfare from the effects and impacts of bingo games and particularly proposed stand-alone, continually operating bingo halls that were not proposed to be ancillary to existing religious assembly or other nonprofit uses that could lead to an increase in crime (including robbery, illegal drug use and sales, burglary, assaults, loan sharking and prostitution); increase in juvenile truancy; decreased parking availability due to the extended time that patrons of these uses stay at the location; and other similar effects on property values and the quality of life in Antioch. The findings in Ordinance No. 2091-C-S and Ordinance No. 2093-C-S are incorporated into this ordinance.

C. The Planning Commission conducted a duly noticed public hearing on February 4, 2015 at which time a resolution was approved to initiate and recommend to the City Council that this ordinance be adopted. The City Council held a duly noticed public hearing on February 10, 2015, at which all interested persons were allowed to address the Council regarding adoption of this ordinance.

D. The City Council finds that the public necessity requires the proposed zoning ordinance amendments to allow bingo games only in non-residential zones and only in residential zones at religious assemblies and schools pursuant to Antioch Municipal Code section 9-5.3844.

E. This proposed ordinance is not detrimental to properties within Antioch and in conformance with the Antioch General Plan.

SECTION 2. Section 9-5.3844 is added to the Antioch Municipal Code:

§ 9-5.3844 BINGO OPERATIONS

- A. Bingo games may generally be conducted in any non-residential zone if the requirements of subsection (C) below are met.
- B. Bingo games may not be conducted in a residential zone in the city, except in religious assemblies and schools within residentially zoned districts under the authority of section 9-5.3832 of this code and if the requirements in subsection (C) below are met.
- C. Bingo games or operations must meet the following criteria to be allowed:
- (1) the bingo use is ancillary to a validly-existing nonprofit religious assembly or other nonprofit organization;
 - (2) is located on property that the nonprofit religious assembly or nonprofit organization owns or leases, or on property whose use is donated to the nonprofit organization and the property is used by the organization for an office or for the performance of the purposes for which the organization is organized and the nonprofit use is otherwise in conformance with this zoning code;
 - (3) the building in which the bingo games will be conducted is in full compliance with the state building code, as set forth in section 8-1.01 of this code; and
 - (4) the bingo operations conform with state law and Chapter 15 of Title 5 of the Antioch Municipal Code, as they may be amended.

SECTION 3. CEQA.

This Ordinance is subject to the CEQA exemption contained in CEQA Guideline section 15061 (b) (3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

SECTION 4. Publication; Effective Date.

This Ordinance shall take effect and be enforced thirty (30) days from and after the date of its adoption by the City Council at a second reading and shall be posted and published in accordance with the California Government Code.

SECTION 5. Severability.

Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

* * * * *

I HEREBY CERTIFY that the foregoing ordinance was introduced at a regular meeting of the City Council of the City of Antioch held on the ___ day of ___ and passed and introduced at a regular meeting thereof, held on the ___ day of _____, by the following vote:

AYES:

NOES:

ABSENT:

Wade Harper, Mayor of the City of Antioch

ATTEST:

Arne Simonsen, City Clerk of the City of Antioch

ORDINANCE NO. 2093-C-S

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH EXTENDING AN INTERIM URGENCY ZONING ORDINANCE PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65858 PROHIBITING THE ISSUANCE OF PERMITS, LICENSES OR APPROVALS FOR CONSTRUCTION, ESTABLISHMENT OR OPERATION OF NEW BINGO HALLS OR OPERATIONS, OR THE EXPANSION OF CURRENT BINGO OPERATIONS, WITHIN THE CITY ON AN INTERIM BASIS PENDING CONSIDERATION OF AMENDMENTS TO TITLE 5, CHAPTER 15 AND TITLE 9 OF THE ANTIOCH MUNICIPAL CODE FOR A PERIOD OF 10 MONTHS AND 15 DAYS AND DECLARING THE URGENCY THEREOF

The City Council of the City of Antioch does ordain as follows:

SECTION 1. Interim Urgency Zoning Ordinance. This ordinance is adopted pursuant to the authority of Section 65858 of the Government Code of the State of California, the Antioch City Municipal Code and applicable laws.

SECTION 2. Findings. The Antioch City Council hereby finds, determines and declares as follows:

A. The City of Antioch may make and enforce all laws and regulations not in conflict with the general laws, and the City holds all rights and powers established by state law.

B. On July 22, 2014, pursuant to Government Code sections 65858, the City Council adopted Ordinance No. 2091-C-S ("Interim Ordinance") to establish a 45-day moratorium on the issuance of any new permit, license or other approvals for new or expanded bingo games or operations within the City.

C. The City has received and anticipates additional requests for the construction, establishment and operation of bingo halls and/or bingo operations within the City. However, the provisions of the City Municipal Code that may regulate the construction, operation, and establishment of bingo halls and/or bingo operations in the City are inadequate and need review, study, and revision. The current provisions also fail to fully take into account the impacts related to the location and manner of construction, establishment and operation of bingo halls and/or bingo operations, and the related public health, safety, and welfare concerns, including but not limited to the impacts they may have on parking, surrounding uses, and the community.

D. The City of Antioch is aware that other cities, including Pleasant Hill, Concord and Fairfield, have experienced land use impacts and/or criminal activity associated with bingo halls and/or bingo operations, including incidents involving assaults, theft, prostitution, loan-sharking and drug dealing. These impacts are set forth in more detail in the staff report and attachments provided to the City Council at the July 22, 2014 and August 26, 2014 meetings (<http://www.ci.antioch.ca.us/CityGov/agendas/default.asp>). These impacts have particularly occurred at facilities that appear only to exist for the purpose of running continual bingo

games, as distinguished from occasional bingo games operated as an ancillary or occasional use at an established non-profit location.

E. The City is not aware of any currently operating bingo halls in Antioch at facilities that exist only for the purpose of running continual bingo games, as distinguished from occasional bingo games currently operating as an ancillary use at a few established non-profit locations in the City. The City Council of the City of Antioch is concerned with the potential increased calls for police services, increasing reports of assaults, theft, loan sharking behavior, prostitution and drug dealing and related detrimental neighborhood effects associated with bingo halls and/or expanded bingo operations, particularly at facilities that appear only to exist for the purpose of running continual bingo games. The potential for increased calls for police service is of particular concern given the current staffing of the Antioch Police Department and challenges in responding to existing criminal activity in the community. (see Police Department presentations at the City Council meetings on July 22, 2014 and April 22, 2014 at <http://www.ci.antioch.ca.us/CityGov/agendas/default.asp>)

F. Under California Constitution and Penal Code, bingo games are illegal lotteries unless conducted in strict conformance with the detailed requirements in the Penal Code. In addition, there would be further State requirements if a city is going to allow remote caller bingo.

G. While the City's Municipal Code does nominally address bingo operations in the City, that section of the Code has not been revised or updated in nearly 35 years, despite revisions to the State Penal Code regarding bingo games during this period.

H. During the past several years, the City has faced similar land use impacts and criminal activity at computer gaming and internet access businesses, leading the City to adopt a moratorium and eventually regular ordinances to address those issues (see the attached and incorporated staff reports, resolutions and ordinances at <http://www.ci.antioch.ca.us/CityGov/agendas/CityCouncil/2012/agendas/022812/022812.pdf> ; <http://www.ci.antioch.ca.us/CityGov/agendas/CityCouncil/2013/agendas/012213/012213.pdf> ; <http://www.ci.antioch.ca.us/CityGov/agendas/CityCouncil/2013/agendas/111213/111213.pdf>). In addition, the City has also been required to address issues regarding card rooms and illegal activity occurring at those establishments (see the attached and incorporated staff report, resolution and newspaper article regarding Kelly's Card Room in Antioch at <http://www.ci.antioch.ca.us/CityGov/agendas/CityCouncil/2013/agendas/111213/111213.pdf>; http://www.justice.gov/usao/can/news/2014/2014_04_25_keslinke.charged.press.html). These computer gaming and internet access businesses, card rooms and continual or expanded bingo operations all raise some similar issues regarding gambling and the criminal and secondary land use impacts of gambling.

I. Since the adoption of the interim urgency ordinance prohibiting new bingo halls or bingo operations or the expansion of current bingo operations on July 22, 2014, additional questions have been raised about the knowledge and ability of current applicants to comply with the requirements in the California Penal Code regarding nonprofits conducting bingo operations as detailed in the staff report for the City Council meeting on August 26, 2014, which provide further justification for the need to update the City's Municipal Code regarding

bingo operations to ensure that future bingo use applications are consistent with both State and City laws and land use requirements.

J. Without the enactment of this Ordinance to extend the interim urgency ordinance prohibiting new bingo halls or bingo operations or the expansion of current bingo operations multiple applicants could quickly receive entitlements which would allow additional bingo halls and/or bingo operations that pose a threat to the public health, safety, and welfare. The City Council hereby determines that the Municipal Code is in need of updating to protect the public against health, safety, and welfare dangers caused by bingo halls and/or bingo operations. The City requires additional time to prepare, evaluate and adopt reasonable regulations regarding the construction, placement and operation of bingo halls and/or bingo operations so that such regulations are applied in a nondiscriminatory manner.

K. In order to prevent the frustration of these studies and the implementation of new regulations, the public interest, health, safety, and welfare require immediate enactment of this Ordinance to extend the interim urgency ordinance. The absence of this Ordinance would impair the orderly and effective implementation of contemplated Municipal Code amendments, and any further authorization of these uses within the City during the period of the interim zoning regulations may be in conflict with or may frustrate the contemplated updates and revisions of the Municipal Code.

L. Based on the foregoing, the City finds that there is a current and immediate threat to the public health, safety, or welfare and that this Ordinance is necessary in order to protect the City from the potential effects and impacts of bingo halls and/or bingo operations in the City, potential increases in crime, impacts on parking availability in the business areas of the City, the aesthetic impacts to the City, and other similar or related effects on property values and the quality of life in the City's neighborhoods.

M. The City Council further finds that this interim zoning regulation is a matter of local and City-wide importance and is not directed towards any particular business that currently seeks to construct or operate bingo halls and/or bingo operations.

N. The City Council finds that this Ordinance is authorized by the City's police powers. The City Council further finds that the length of the interim zoning regulations imposed by this Ordinance will not in any way deprive any person of rights granted by state or federal laws, because the interim zoning regulation is short in duration and essential to protect the public health, safety and welfare.

SECTION 3. Extension of Temporary Moratorium.

A. In accordance with the authority granted the City under Government Code section 65858, and pursuant to the findings stated herein, the City Council hereby (1) finds that there exists a current and immediate threat to the public health, safety, and welfare requiring this change in the City's permitting provisions for bingo halls and/or bingo operations, (2) further finds that this ordinance is necessary for the immediate preservation of the public peace,

health and safety, and (3) hereby declares and imposes a temporary moratorium for the immediate preservation of the public health, safety and welfare as set forth below.

B. The City orders as follows: For a period of ten (10) months and fifteen (15) days from and after the date of adoption of this Ordinance, no permits (including use permits, conditional use permits, special or temporary permits) or other applicable use entitlement (including variances, building permits, certificates of occupancy or business licenses) may be issued for the establishment or operation of new bingo halls and/or bingo operations within the City, except as otherwise provided for herein. In addition, no existing bingo halls and/or bingo operations may be relocated or expanded, whether by means of additional space, construction of new facility, reconfiguration of existing facility, additional equipment, or additional days or hours of operation.

C. The moratorium set forth above shall not apply to the renewal of any existing business license for bingo halls and/or bingo operations or existing bingo halls and/or bingo operations permit issued under Title 5, Chapter 15 of the Antioch Municipal Code provided the renewal seeks to maintain the business in the existing location with no expansion in use or facilities, whether by means of additional space, construction of new facility, reconfiguration of existing facility, additional equipment, or additional days or hours of operation.

SECTION 4. CEQA. This ordinance is not subject to CEQA pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, because it has no potential for resulting in a physical change to the environment, directly or indirectly; rather it prevents changes in the environment pending the completion of the contemplated municipal code review.

SECTION 5. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 6. Effective Date. This interim ordinance shall take effect immediately upon its adoption and shall continue in effect for 10 months and 15 days from the date of its adoption by not less than a four-fifths vote of the Antioch City Council, and shall thereafter be of no further force and effect, unless, after notice pursuant to Government Code Section 65090 and public hearing, the Antioch City Council extends this Ordinance, and the interim zoning regulations adopted thereby, pursuant to Government Code Section 65858.

SECTION 7. Report of Council. Ten days prior to the expiration of this Ordinance, or any extension thereof, this Council shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of this ordinance, or any extension thereof.

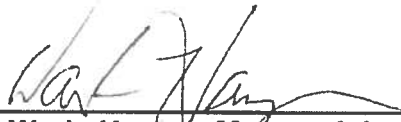
SECTION 8. Declaration of Urgency. This ordinance is hereby declared to be an urgency measure necessary for the immediate protection of the public health, safety and welfare. This Council hereby finds that there is a current and immediate threat to the public health, safety and welfare. The reasons for this urgency are declared and set forth in Section 2 of this Ordinance and are incorporated herein by reference.

SECTION 9. Publication; Certification. The City Clerk shall certify to the adoption of this Ordinance and cause same to be published in accordance with State law.


* * * * *

I HEREBY CERTIFY that the foregoing Ordinance was introduced and adopted as an urgency ordinance pursuant to the terms of California Government Code Section 65858 at a regular meeting of the City Council of the City of Antioch on the 26th day of August, 2014, by the following vote:

- AYES:** Council Members Wilson, Rocha, Tiscareno and Mayor Harper
- NOES:** None
- ABSENT:** None
- ABSTAIN:** None





Wade Harper, Mayor of the City of Antioch

ATTEST: 

Arne Simonsen, City Clerk of the City of Antioch

**STAFF REPORT TO THE CITY COUNCIL
FOR CONSIDERATION AT THE MEETING OF AUGUST 26, 2014**

Prepared by: Mindy Gentry, Senior Planner 

Reviewed by: Tina Wehrmeister, Community Development Director 

Date: August 21, 2014

Subject: **Bingo Halls and Bingo Operations Extension of an Urgency Zoning Ordinance**

RECOMMENDATION

It is recommended that the City Council:

Approve a motion to adopt the attached urgency zoning ordinance extending a temporary moratorium prohibiting the issuance of permits, licenses or approvals for construction, establishment or operation of any new bingo halls or bingo operations, or the expansion of current bingo operations, within the City of Antioch on an interim basis pending consideration of amendments to Title 5, Chapter 15 and Title 9 of the Antioch Municipal Code for a period of 10 months and 15 days and declaring the urgency thereof (four-fifths (4/5th) vote required) (Attachment "A");

BACKGROUND INFORMATION

Pursuant to Government Code section 65858, the City Council adopted Ordinance No. 2091-C-S ("Interim Ordinance") on July 22, 2014 to establish a temporary moratorium on the issuance of any permits, licenses or other approvals for the construction, establishment or operation of bingo halls and/or bingo operations, or the expansion of current bingo operations within the City. The staff report for that City Council meeting is included as Attachment "B" and provides more details regarding the issue and the urgent need for a temporary moratorium to address public safety, health, and welfare issues raised by these bingo halls and bingo operations.

The Interim Ordinance, by law, is effective for only 45 days and is therefore set to expire on September 5, 2014. Government Code section 65858 authorizes the City to extend the moratorium by adopting another urgency ordinance, which would be effective for an additional 10 months and 15 days ("Extension Ordinance") (Attachment "A").

Following the adoption of the Interim Ordinance, staff has begun to review potential amendments to the Antioch Municipal Code ("AMC") with respect to the regulation of bingo games and operations in the City, including potential zoning issues. As part of this review, staff has been gathering and reviewing ordinances from other jurisdictions that regulate bingo games and operations, as well as following up on information presented to the City Council at the July 22, 2014 meeting, including data and other findings from the cities of Pleasant Hill, Concord and Fairfield. Staff needs additional time to study the extent to which new regulations may be desirable and the scope of such regulations with respect to the establishment and operation of bingo halls and/or bingo operations within the City. Staff is continuing to review the City's options, and intends to provide recommendations in the near future.

This ordinance may include an amendment to the Zoning Code, Title 9, Chapter 5 of the Municipal Code, and will therefore require review and recommendation by the Planning Commission at a duly noticed public hearing and review and adoption by the City Council at duly noticed public hearings, pursuant to Government Code section 65854.

Staff has not completed its research and drafting of said regulations. Additional time is required to prepare draft regulations and to consult with interested parties and for public hearings. Also, due to staffing levels in the Community Development Department, Police Department and City Attorney's Office, the complexity of the issues to be studied and the ongoing public safety, health and welfare issues raised by bingo halls and bingo operations, it is recommended that the moratorium be extended for 10 months and 15 days. Any further extension would require an additional noticed public hearing. Proper noticing procedures were followed in advance of this item being placed on the agenda.

It is prudent to extend the moratorium for the statutorily-allowed period because the City cannot predict the precise length of time necessary to complete public hearings. However, adoption of the new ordinance and repeal of this moratorium may take place sooner.

CURRENT BINGO APPLICATIONS

Also, since the adoption of the 45 day urgency ordinance, staff has researched the organization "It Takes a Village", whose representatives voiced opposition to the moratorium. "It Takes a Village" also has an active application with the Community Development Department requesting a use permit to operate a bingo hall. Staff has found "It Takes a Village" does not appear to be currently registered as a nonprofit organization, which is required by the State Penal Code to operate a bingo game. Further, the written synopsis and the public testimony provided by Mr. Al Davis at the July 22nd Council hearing, suggests that "It Takes a Village" staff would be paid to operate the proposed bingo facility (see the video of the City Council meeting at: <http://www.ci.antioch.ca.us/CityGov/CouncilMeetings/072214/>). This is also contrary to the State Penal Code, which does not allow any person to receive pay or a profit, wage, or salary from any bingo game except for security personnel.

These inconsistencies with State law illustrate the need to update the City's Municipal Code regarding bingo operations, which has not been revised or updated in nearly 35 years. Clearly, not all applicants are familiar with State requirements. Extending the moratorium to allow sufficient time to update Code regulations and application requirements will ensure that future bingo use requests are consistent with both State and City laws and land use requirements.

Since the July 22, 2014 hearing, staff has not received any further communications from either applicant: "It Takes a Village" or Ms. Tricia Simmons. However, staff received a letter opposing any further bingo operations within the City (Attachment "C").

City Staff, including the Police Department, is concerned with the potential increased calls for police services, increasing reports of assaults, thefts, prostitution, loan-sharking and drug dealing and related detrimental neighborhood effects associated with bingo hall and/or expanded bingo operations, particularly at facilities that appear to exist only for the purpose of running continual bingo games. The potential for increased calls for police service is of particular concern given the current staffing of the Antioch Police Department and challenges in responding to existing criminal activity in the community.

ENVIRONMENTAL

The moratorium extension contemplated herein is not subject to CEQA pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines, because it has no potential for resulting in a physical change to the environment, directly or indirectly; rather it prevents changes in the environment pending the completion of the contemplated municipal code review).

FISCAL IMPACT

There is no direct fiscal impact with the adoption of the proposed Interim Urgency Zoning Ordinance. The organizations that can legally operate bingo halls and/or bingo operations are non-profits and are exempt from the business license tax. There will be staff time expended to draft a regular ordinance and to prepare a zoning amendment, if appropriate.

OPTIONS

1. If the Council chooses not to adopt the Interim Urgency Zoning Ordinance by 4/5 vote, then additional bingo halls and/or bingo operations could open with the approval of a use permit in any zoning district without the benefit of the City further studying the impacts of these businesses and appropriate land use regulations or police regulatory requirements, when the moratorium expires on September 5, 2014.

ATTACHMENTS

- A. Interim Urgency Zoning Ordinance prohibiting the issuance of permits, licenses or approvals for construction, establishment or operation of any new bingo halls or operations, or the expansion of current bingo operations, within the City of Antioch on an interim basis pending consideration of amendments to Title 5, Chapter 15 and Title 9 of the Antioch Municipal Code for a period of 10 months and 15 days and declaring the urgency thereof
- B. Staff Report and Minutes from the July 22, 2014 City Council Hearing
- C. Letter of Opposition to Bingo Operations Dated August 7, 2014 from Francine McMahon of East County Hot Shots

ATTACHMENT "A"

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH EXTENDING AN INTERIM URGENCY ZONING ORDINANCE PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65858 PROHIBITING THE ISSUANCE OF PERMITS, LICENSES OR APPROVALS FOR CONSTRUCTION, ESTABLISHMENT OR OPERATION OF NEW BINGO HALLS OR OPERATIONS, OR THE EXPANSION OF CURRENT BINGO OPERATIONS, WITHIN THE CITY ON AN INTERIM BASIS PENDING CONSIDERATION OF AMENDMENTS TO TITLE 5, CHAPTER 15 AND TITLE 9 OF THE ANTIOCH MUNICIPAL CODE FOR A PERIOD OF 10 MONTHS AND 15 DAYS AND DECLARING THE URGENCY THEREOF

The City Council of the City of Antioch does ordain as follows:

SECTION 1. Interim Urgency Zoning Ordinance. This ordinance is adopted pursuant to the authority of Section 65858 of the Government Code of the State of California, the Antioch City Municipal Code and applicable laws.

SECTION 2. Findings. The Antioch City Council hereby finds, determines and declares as follows:

A. The City of Antioch may make and enforce all laws and regulations not in conflict with the general laws, and the City holds all rights and powers established by state law.

B. On July 22, 2014, pursuant to Government Code sections 65858, the City Council adopted Ordinance No. 2091-C-S ("Interim Ordinance") to establish a 45-day moratorium on the issuance of any new permit, license or other approvals for new or expanded bingo games or operations within the City.

C. The City has received and anticipates additional requests for the construction, establishment and operation of bingo halls and/or bingo operations within the City. However, the provisions of the City Municipal Code that may regulate the construction, operation, and establishment of bingo halls and/or bingo operations in the City are inadequate and need review, study, and revision. The current provisions also fail to fully take into account the impacts related to the location and manner of construction, establishment and operation of bingo halls and/or bingo operations, and the related public health, safety, and welfare concerns, including but not limited to the impacts they may have on parking, surrounding uses, and the community.

D. The City of Antioch is aware that other cities, including Pleasant Hill, Concord and Fairfield, have experienced land use impacts and/or criminal activity associated with bingo halls and/or bingo operations, including incidents involving assaults, theft, prostitution, loan-sharking and drug dealing. These impacts are set forth in more detail in the staff report and attachments provided to the City Council at the July 22, 2014 and August 26, 2014 meetings (<http://www.ci.antioch.ca.us/CityGov/agendas/default.asp>). These impacts have particularly occurred at facilities that appear only to exist for the purpose of running continual bingo

games, as distinguished from occasional bingo games operated as an ancillary or occasional use at an established non-profit location.

E. The City is not aware of any currently operating bingo halls in Antioch at facilities that exist only for the purpose of running continual bingo games, as distinguished from occasional bingo games currently operating as an ancillary use at a few established non-profit locations in the City. The City Council of the City of Antioch is concerned with the potential increased calls for police services, increasing reports of assaults, theft, loan sharking behavior, prostitution and drug dealing and related detrimental neighborhood effects associated with bingo halls and/or expanded bingo operations, particularly at facilities that appear only to exist for the purpose of running continual bingo games. The potential for increased calls for police service is of particular concern given the current staffing of the Antioch Police Department and challenges in responding to existing criminal activity in the community. (see Police Department presentations at the City Council meetings on July 22, 2014 and April 22, 2014 at <http://www.ci.antioch.ca.us/CityGov/agendas/default.asp>)

F. Under California Constitution and Penal Code, bingo games are illegal lotteries unless conducted in strict conformance with the detailed requirements in the Penal Code. In addition, there would be further State requirements if a city is going to allow remote caller bingo.

G. While the City's Municipal Code does nominally address bingo operations in the City, that section of the Code has not been revised or updated in nearly 35 years, despite revisions to the State Penal Code regarding bingo games during this period.

H. During the past several years, the City has faced similar land use impacts and criminal activity at computer gaming and internet access businesses, leading the City to adopt a moratorium and eventually regular ordinances to address those issues (see the attached and incorporated staff reports, resolutions and ordinances at <http://www.ci.antioch.ca.us/CityGov/agendas/CityCouncil/2012/agendas/022812/022812.pdf> ; <http://www.ci.antioch.ca.us/CityGov/agendas/CityCouncil/2013/agendas/012213/012213.pdf> ; <http://www.ci.antioch.ca.us/CityGov/agendas/CityCouncil/2013/agendas/111213/111213.pdf>). In addition, the City has also been required to address issues regarding card rooms and illegal activity occurring at those establishments (see the attached and incorporated staff report, resolution and newspaper article regarding Kelly's Card Room in Antioch at <http://www.ci.antioch.ca.us/CityGov/agendas/CityCouncil/2013/agendas/111213/111213.pdf>; http://www.justice.gov/usao/can/news/2014/2014_04_25_kslinke.charged.press.html). These computer gaming and internet access businesses, card rooms and continual or expanded bingo operations all raise some similar issues regarding gambling and the criminal and secondary land use impacts of gambling.

I. Since the adoption of the interim urgency ordinance prohibiting new bingo halls or bingo operations or the expansion of current bingo operations on July 22, 2014, additional questions have been raised about the knowledge and ability of current applicants to comply with the requirements in the California Penal Code regarding nonprofits conducting bingo operations as detailed in the staff report for the City Council meeting on August 26, 2014, which provide further justification for the need to update the City's Municipal Code regarding

bingo operations to ensure that future bingo use applications are consistent with both State and City laws and land use requirements.

J. Without the enactment of this Ordinance to extend the interim urgency ordinance prohibiting new bingo halls or bingo operations or the expansion of current bingo operations multiple applicants could quickly receive entitlements which would allow additional bingo halls and/or bingo operations that pose a threat to the public health, safety, and welfare. The City Council hereby determines that the Municipal Code is in need of updating to protect the public against health, safety, and welfare dangers caused by bingo halls and/or bingo operations. The City requires additional time to prepare, evaluate and adopt reasonable regulations regarding the construction, placement and operation of bingo halls and/or bingo operations so that such regulations are applied in a nondiscriminatory manner.

K. In order to prevent the frustration of these studies and the implementation of new regulations, the public interest, health, safety, and welfare require immediate enactment of this Ordinance to extend the interim urgency ordinance. The absence of this Ordinance would impair the orderly and effective implementation of contemplated Municipal Code amendments, and any further authorization of these uses within the City during the period of the interim zoning regulations may be in conflict with or may frustrate the contemplated updates and revisions of the Municipal Code.

L. Based on the foregoing, the City finds that there is a current and immediate threat to the public health, safety, or welfare and that this Ordinance is necessary in order to protect the City from the potential effects and impacts of bingo halls and/or bingo operations in the City, potential increases in crime, impacts on parking availability in the business areas of the City, the aesthetic impacts to the City, and other similar or related effects on property values and the quality of life in the City's neighborhoods.

M. The City Council further finds that this interim zoning regulation is a matter of local and City-wide importance and is not directed towards any particular business that currently seeks to construct or operate bingo halls and/or bingo operations.

N. The City Council finds that this Ordinance is authorized by the City's police powers. The City Council further finds that the length of the interim zoning regulations imposed by this Ordinance will not in any way deprive any person of rights granted by state or federal laws, because the interim zoning regulation is short in duration and essential to protect the public health, safety and welfare.

SECTION 3. Extension of Temporary Moratorium.

A. In accordance with the authority granted the City under Government Code section 65858, and pursuant to the findings stated herein, the City Council hereby (1) finds that there exists a current and immediate threat to the public health, safety, and welfare requiring this change in the City's permitting provisions for bingo halls and/or bingo operations, (2) further finds that this ordinance is necessary for the immediate preservation of the public peace,

health and safety, and (3) hereby declares and imposes a temporary moratorium for the immediate preservation of the public health, safety and welfare as set forth below.

B. The City orders as follows: For a period of ten (10) months and fifteen (15) days from and after the date of adoption of this Ordinance, no permits (including use permits, conditional use permits, special or temporary permits) or other applicable use entitlement (including variances, building permits, certificates of occupancy or business licenses) may be issued for the establishment or operation of new bingo halls and/or bingo operations within the City, except as otherwise provided for herein. In addition, no existing bingo halls and/or bingo operations may be relocated or expanded, whether by means of additional space, construction of new facility, reconfiguration of existing facility, additional equipment, or additional days or hours of operation.

C. The moratorium set forth above shall not apply to the renewal of any existing business license for bingo halls and/or bingo operations or existing bingo halls and/or bingo operations permit issued under Title 5, Chapter 15 of the Antioch Municipal Code provided the renewal seeks to maintain the business in the existing location with no expansion in use or facilities, whether by means of additional space, construction of new facility, reconfiguration of existing facility, additional equipment, or additional days or hours of operation.

SECTION 4. CEQA. This ordinance is not subject to CEQA pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, because it has no potential for resulting in a physical change to the environment, directly or indirectly; rather it prevents changes in the environment pending the completion of the contemplated municipal code review.

SECTION 5. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 6. Effective Date. This interim ordinance shall take effect immediately upon its adoption and shall continue in effect for 10 months and 15 days from the date of its adoption by not less than a four-fifths vote of the Antioch City Council, and shall thereafter be of no further force and effect, unless, after notice pursuant to Government Code Section 65090 and public hearing, the Antioch City Council extends this Ordinance, and the interim zoning regulations adopted thereby, pursuant to Government Code Section 65858.

SECTION 7. Report of Council. Ten days prior to the expiration of this Ordinance, or any extension thereof, this Council shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of this ordinance, or any extension thereof.

SECTION 8. Declaration of Urgency. This ordinance is hereby declared to be an urgency measure necessary for the immediate protection of the public health, safety and welfare. This Council hereby finds that there is a current and immediate threat to the public health, safety and welfare. The reasons for this urgency are declared and set forth in Section 2 of this Ordinance and are incorporated herein by reference.

SECTION 9. Publication; Certification. The City Clerk shall certify to the adoption of this Ordinance and cause same to be published in accordance with State law.

* * * * *

I HEREBY CERTIFY that the foregoing Ordinance was introduced and adopted as an urgency ordinance pursuant to the terms of California Government Code Section 65858 at a regular meeting of the City Council of the City of Antioch on the 26th day of August, 2014, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Wade Harper, Mayor of the City of Antioch

ATTEST:

Arne Simonsen, City Clerk of the City of Antioch

ATTACHMENT "B"

STAFF REPORT TO THE CITY COUNCIL FOR CONSIDERATION AT THE MEETING OF JULY 22, 2014

Prepared by: Mindy Gentry, Senior Planner *MG*
Reviewed by: Tina Wehrmeister, Community Development Director *TW*
Date: July 7, 2014
Subject: Bingo Halls and Bingo Operations Urgency Zoning Ordinance

RECOMMENDATION

It is recommended that the City Council:

Approve a motion to adopt the attached interim urgency zoning ordinance prohibiting the issuance of permits, licenses or approvals for construction, establishment or operation of any new bingo halls or bingo operations, or the expansion of current bingo operations, within the City of Antioch on an interim basis pending consideration of amendments to Title 5, Chapter 15 and Title 9 of the Antioch Municipal Code for a period of forty-five days and declaring the urgency thereof (four-fifths (4/5th) vote required) (Attachment "A");

BACKGROUND INFORMATION

Bingo Hall Games Use Permit Application Requests

Over the past several years, the City has received inquiries regarding the establishment of sole use, continuing bingo halls; however none of these inquiries materialized into land use applications. From a land use perspective, it was determined that the bingo hall/operations use be classified as a public assembly use requiring a use permit in all zoning designations. In the last few months, the City has received two use permit applications to operate bingo halls at the following locations:

- 2317 Buchanan Road (Attachment "B"). The application is proposed in a 2,700 square foot retail space with a zoning designation of Regional Commercial (C-3). The proposed hours of operation are seven days a week from 12:00 PM to 12:00 AM. The floor plan is broken up into four small rooms with tables for those participating in the bingo game as well as a separate room for the call blower. The application was submitted by Ms. Tricia Simmons (former owner of internet access business – Cot on the Web and T's Internet Cafe) in conjunction with Patriotic Heart (Hire Patriots), a nonprofit organization benefiting United States veterans; however staff is in the process of verifying Ms. Simmons's connection to Patriotic Heart as well as their non-profit status, as that is a threshold issue for any bingo operation to operate in conformance with the State Penal Code's limited exceptions for legal bingo games that do not constitute illegal gambling.
- 201 East Eighteenth Street (Attachment "C"). This application proposes bingo games to be conducted within approximately half of a building that was formerly a grocery store with a zoning designation of Neighborhood/Community Commercial (C-2). The maximum capacity of the facility would be 324 players all within the bingo area. There is

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an area for purchasing bingo cards and pull tabs as well as a room for security and money storage. The application proposes the hours of operation to be four days week, Wednesday to Sunday, from 4:30 PM to 10:00 PM. The application was submitted by Mr. Al Davis in conjunction with It Takes a Village, a nonprofit organization formed for the express purpose of operating and managing bingo halls.

These two applications are dramatically different than the existing bingo uses in the City, which are typically conducted as an ancillary and occasional use and with little complaints from the community. For example, the Veterans of Foreign Wars operate bingo games which are limited to Tuesday nights at their Fulton Shipyard Road location beginning at 6:45 PM. The Antioch Senior Center has bingo games, which are operated by the Antioch Senior Citizen's Club and are conducted by volunteers on Monday and Thursday afternoons from 1:00 PM to 3:00 PM as a fundraiser. Staff's suggested moratorium is not focused at these long-standing, occasional and ancillary bingo games.

California Penal Code

The Antioch Municipal Code authorizes bingo games to be conducted within the City pursuant the California Penal Code Section 326.5 (Attachment "D"). However, the AMC does not provide any regulations beyond those stated in the State requirements (Attachment "E"). The City's Municipal Code also does not address Penal Code Section 326.3 (Remote Caller Bingo), which was added to State law in 2008. The City's bingo ordinance was adopted in 1980 and does not strictly comply with the provisions of the Penal Code as the ordinance only references Section 326.5 of the Penal Code and does not address remote caller bingo. Further, staff has concerns to the public health, safety, and welfare in regards to bingo games occurring without regulation or City oversight to verify the operation is compliant with the State Penal Code, which is discussed below.

Traditional Bingo (Penal Code Section 326.5) versus Remote Caller Bingo (Penal Code Section 326.3)

Traditional Bingo: Under state law, cities may adopt an ordinance to allow bingo games as long as two basic rules are met:

- 1) The games may only be conducted by certain categories of tax-exempt organizations (e.g. labor organizations, fraternal orders, chamber of commerce, religious corporations, veteran's organizations).
- 2) The receipts from the games may be used only for charitable purposes.

In addition to the two basic rules, there are other notable regulations and restrictions:

- It is a misdemeanor for any person to receive or pay a profit, wage, or salary from any bingo game with the exception that security personnel employed by the organization conducting the bingo game may be paid from the revenues of the bingo games.
- Authorized organizations may only conduct games "on property owned or leased by" the organization, or on property "whose use is donated to the organization" and which property is used by the organization for office space or for the purposes for which the organization was organized.

- A bingo game "shall be operated and staffed only by members" of the non-profit, and those members may not "receive a profit, wage, or salary from any bingo game," except that the non-profit may employ outside security personnel.
- No one other than the non-profit organization authorized to conduct the bingo games may "hold a financial interest in the conduct of a bingo game."

Remote Caller Bingo: A remote caller bingo game is a game of bingo in which the numbers or symbols on randomly drawn plastic balls are announced by a natural person present at the site at which the live game is conducted. However, the organization conducting the bingo game uses audio and video technology to link any of its in-state facilities for the purpose of transmitting the remote calling of a live bingo game from a single location to multiple locations.

If a city or county wants to authorize remote caller bingo games in its jurisdiction, a valid ordinance would include the following requirements:

- The games may only be conducted by certain categories of tax-exempt organizations (e.g. labor organizations, fraternal orders, chamber of commerce, religious corporations, veteran's organizations).
- Organizations conducting the game must be incorporated or in existence for three or more years.
- Organizations conducting the game must be licensed under Penal Code Section 326.5(l). The City may impose a license fee on organizations authorized to conduct bingo games. The fee, whether for initial license or renewal, may not exceed \$50.00 annually. If an application is denied, one-half of any license fee paid must be refunded to the organization. Additional fees for law enforcement and public safety costs incurred by the City that are directly related to bingo activities may be imposed and will be collected monthly. However, the fee may not exceed actual costs incurred.
- Receipts of the game must be used for charitable purposes only. The organization conducting the game must determine the disbursement of the net receipts of the game.
- The operation of bingo may not be the primary purpose for which the organization is organized.

The Penal Code does provide cities with a model ordinance that may be used to allow remote caller bingo in compliance with the Penal Code. According to the California Gambling Control Commission, a local ordinance must explicitly allow remote caller bingo games to be played or conducted in the city. The City's Municipal Code does not explicitly allow remote caller bingo and further study of the issue is warranted during the interim moratorium period.

Urgency Ordinance

To adopt a regular ordinance, a first reading of the ordinance is held and then a second reading to adopt the ordinance at a regular meeting of the City Council. A regular ordinance is effective 30 days after adoption. An urgency ordinance is adopted at one meeting and takes effect immediately following a 4/5 vote of the City Council finding that there is a need for the immediate preservation of the public peace, health and safety.

Interim Ordinances/Moratoriums

An interim zoning ordinance is often called a moratorium and takes effect immediately to prohibit a use. Pursuant to Government Code Section 65858, the City may establish a moratorium prohibiting any use that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the City Council, Planning Commission or the Planning Department is considering in order to protect and preserve the public safety, health and welfare. A moratorium lasts only 45 days, but may be extended for up to a total of two (2) years, provided that the current and immediate threat to the public safety, health and welfare still exists, and the City follows the public notice and hearing procedures for extension of the moratorium. Interim ordinances require a 4/5 vote of the City Council.

ENVIRONMENTAL

The moratorium is not subject to CEQA pursuant to Sections 15060(c)(2) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, because it has no potential for resulting in a physical change to the environment, directly or indirectly; rather it prevents changes in the environment pending the completion of the contemplated municipal code review.

DISCUSSION

The City's current rules and regulations pertaining to bingo halls and/or bingo operations are in need of an update and modernization in order to comply with State law. Given that the City has not amended its bingo ordinance since 1980 (nearly 35 years) and the fact that the City has received two applications for new bingo hall operations using new technologies and proposing continued daily uses, the City has established a need to study the impacts of new bingo halls and/or bingo operations as well as the expansion of existing bingo halls and/or bingo operations.

The establishment and/or proliferation of bingo halls and/or bingo operations in the City may have negative public health, safety, and welfare impacts. Bingo halls and/or operations are within a similar vein as internet access businesses and online gaming as it is a form of gambling and are considered illegal lotteries unless conducted in strict conformance with the detailed requirements in the California Penal Code; therefore requiring local jurisdictional control.

In the recent past, the City has had to address criminal activities with other gambling uses such as internet access businesses and card rooms; therefore staff feels that the City should be proactive with these potential issues that may occur at bingo halls and/or bingo operations, particularly given the limited resources of the Police Department. The Police Department recommends adopting the moratorium to allow time to better study the uses and consider appropriate regulations, as opposed to waiting for problems to occur that will tax an already under-staffed Police Department.

Further, other cities such as Pleasant Hill, Concord, and Fairfield, have had incidents involving prostitution, loan-sharking, assaults, theft, and drug dealing, particularly at facilities that appear only to exist for the purpose of running bingo games. A copy of a memo prepared by the Pleasant Hill Police Department is attached (Attachment "F"). Given the criminal activity associated with other gambling uses within the City of Antioch and the issues experienced by other communities, the Police Department is concerned with the public safety, health, and welfare by having an increased demand in services on an already thinly stretched department.

As proposed, the interim urgency ordinance would establish a temporary moratorium on the granting of new permits, licenses, or any other entitlements pertaining to bingo halls and/or operations as well as the expansion of existing bingo halls and/or bingo operations, allowing the City time to study the potential effects of new laws or regulations governing bingo halls and/or bingo operations. Staff is not recommending that the current, occasional bingo games that have been run traditionally on a limited and ancillary basis be closed, but just that they not expand during this moratorium period.

Staff anticipates, but is not limited to, studying the following during the moratorium:

- Determining whether new bingo halls and/or bingo operations (traditional and remote caller) should be permitted anywhere in the City, and if they are allowed, which zoning districts would be appropriate.
- Determining whether bingo halls and/or bingo operations should be conditionally permitted uses, zoning administrator permitted uses, or permitted uses.
- Deciding whether bingo halls and/or bingo operations should be located a minimum distance from other bingo halls and/or bingo operations or other sensitive uses.
- Parking and security requirements for bingo halls and/or bingo operations.
- Determining the costs of the annual licensing fee and potentially any other costs the City may incur pertaining to law enforcement and public safety that are directly related to bingo halls and/or bingo operations.
- Determining whether, in addition to land use regulations, a police licensing process should be established similar to card rooms and computer gaming businesses, which is an approach that other cities have taken.

Urgency Findings

The City presently has two requests received, and anticipates additional requests, for the establishment and operation of bingo halls and/or bingo operations within the City. However, the provisions in the Municipal Code that regulates bingo halls and/or bingo operations in the City are inadequate and need review, study, and revision. The provisions fail to take into consideration the impacts related to the location and manner of the operation of bingo halls and/or bingo operations, and the related public health, safety, and welfare concerns, including, but not limited to the impacts they may have on parking, surrounding uses, and the community.

Given the City's historic criminal activities and land use impacts associated with gambling at internet access businesses and card rooms, and other jurisdictions having land use and/or criminal activity associated with bingo halls and/or bingo operations, the City has concerns with a potential increase in calls for police services and increased criminal activities such as theft, assault, prostitution, loan sharking, and drug dealing. Further study is required to address these potential issues and to create rules and regulations that are fitting for the needs of the City of Antioch to minimize impacts to the public health, safety, and welfare.

Operation of additional bingo halls and/or bingo operations will increase these negative impacts while the use is being studied. Due to the threat posed to the public health, safety, and welfare the City requires additional time to prepare, evaluate, and adopt reasonable regulations regarding the operation of bingo halls and/or bingo operations.

FISCAL IMPACT

There is no direct fiscal impact with the adoption of the proposed Interim Urgency Zoning Ordinance. The organizations that are involved with bingo halls and/or bingo operations are non-profits therefore are exempt from the business license tax. There will be staff time expended to draft a regular ordinance and to prepare a zoning amendment, if appropriate.

OPTIONS

1. If the Council chooses not to adopt the Interim Urgency Zoning Ordinance by 4/5 vote, then additional bingo halls and/or bingo operations could open with the approval of a use permit in any zoning district without the benefit of the City further studying the impacts of these businesses and appropriate land use regulations or police regulatory requirements.

ATTACHMENTS

- A. Interim Urgency Zoning Ordinance prohibiting the issuance of permits, licenses or approvals for construction, establishment or operation of any new bingo halls or operations, or the expansion of current bingo operations, within the City of Antioch on an interim basis pending consideration of amendments to Title 5, Chapter 15 and Title 9 of the Antioch Municipal Code for a period of forty-five days and declaring the urgency thereof
- B. Proposed Bingo Hall Application at 2317 Buchanan Road
- C. Proposed Bingo Hall Application at 201 East Eighteenth Street
- D. Antioch Municipal Code Section 5-15.01
- E. California State Penal Code Section 326.3 – 326.5
- F. Memo of the Pleasant Hill Police Department dated October 3, 2012 regarding issues with Bingo Halls
- G. Newspaper Article on Internet Access Businesses and Gambling

an area for purchasing bingo cards and pull tabs as well as a room for security and money storage. The application proposes the hours of operation to be four days week, Wednesday to Sunday, from 4:30 PM to 10:00 PM. The application was submitted by Mr. Al Davis in conjunction with It Takes a Village, a nonprofit organization formed for the express purpose of operating and managing bingo halls.

These two applications are dramatically different than the existing bingo uses in the City, which are typically conducted as an ancillary and occasional use and with little complaints from the community. For example, the Veterans of Foreign Wars operate bingo games which are limited to Tuesday nights at their Fulton Shipyard Road location beginning at 6:45 PM. The Antioch Senior Center has bingo games, which are operated by the Antioch Senior Citizen's Club and are conducted by volunteers on Monday and Thursday afternoons from 1:00 PM to 3:00 PM as a fundraiser. Staff's suggested moratorium is not focused at these long-standing, occasional and ancillary bingo games.

California Penal Code

The Antioch Municipal Code authorizes bingo games to be conducted within the City pursuant the California Penal Code Section 326.5 (Attachment "D"). However, the AMC does not provide any regulations beyond those stated in the State requirements (Attachment "E"). The City's Municipal Code also does not address Penal Code Section 326.3 (Remote Caller Bingo), which was added to State law in 2008. The City's bingo ordinance was adopted in 1980 and does not strictly comply with the provisions of the Penal Code as the ordinance only references Section 326.5 of the Penal Code and does not address remote caller bingo. Further, staff has concerns to the public health, safety, and welfare in regards to bingo games occurring without regulation or City oversight to verify the operation is compliant with the State Penal Code, which is discussed below.

Traditional Bingo (Penal Code Section 326.5) versus Remote Caller Bingo (Penal Code Section 326.3)

Traditional Bingo: Under state law, cities may adopt an ordinance to allow bingo games as long as two basic rules are met:

- 1) The games may only be conducted by certain categories of tax-exempt organizations (e.g. labor organizations, fraternal orders, chamber of commerce, religious corporations, veteran's organizations).
- 2) The receipts from the games may be used only for charitable purposes.

In addition to the two basic rules, there are other notable regulations and restrictions:

- It is a misdemeanor for any person to receive or pay a profit, wage, or salary from any bingo game with the exception that security personnel employed by the organization conducting the bingo game may be paid from the revenues of the bingo games.
- Authorized organizations may only conduct games "on property owned or leased by" the organization, or on property "whose use is donated to the organization" and which property is used by the organization for office space or for the purposes for which the organization was organized.

- A bingo game "shall be operated and staffed only by members" of the non-profit, and those members may not "receive a profit, wage, or salary from any bingo game," except that the non-profit may employ outside security personnel.
- No one other than the non-profit organization authorized to conduct the bingo games may "hold a financial interest in the conduct of a bingo game."

Remote Caller Bingo: A remote caller bingo game is a game of bingo in which the numbers or symbols on randomly drawn plastic balls are announced by a natural person present at the site at which the live game is conducted. However, the organization conducting the bingo game uses audio and video technology to link any of its in-state facilities for the purpose of transmitting the remote calling of a live bingo game from a single location to multiple locations.

If a city or county wants to authorize remote caller bingo games in its jurisdiction, a valid ordinance would include the following requirements:

- The games may only be conducted by certain categories of tax-exempt organizations (e.g. labor organizations, fraternal orders, chamber of commerce, religious corporations, veteran's organizations).
- Organizations conducting the game must be incorporated or in existence for three or more years.
- Organizations conducting the game must be licensed under Penal Code Section 326.5(l). The City may impose a license fee on organizations authorized to conduct bingo games. The fee, whether for initial license or renewal, may not exceed \$50.00 annually. If an application is denied, one-half of any license fee paid must be refunded to the organization. Additional fees for law enforcement and public safety costs incurred by the City that are directly related to bingo activities may be imposed and will be collected monthly. However, the fee may not exceed actual costs incurred.
- Receipts of the game must be used for charitable purposes only. The organization conducting the game must determine the disbursement of the net receipts of the game.
- The operation of bingo may not be the primary purpose for which the organization is organized.

The Penal Code does provide cities with a model ordinance that may be used to allow remote caller bingo in compliance with the Penal Code. According to the California Gambling Control Commission, a local ordinance must explicitly allow remote caller bingo games to be played or conducted in the city. The City's Municipal Code does not explicitly allow remote caller bingo and further study of the issue is warranted during the interim moratorium period.

Urgency Ordinance

To adopt a regular ordinance, a first reading of the ordinance is held and then a second reading to adopt the ordinance at a regular meeting of the City Council. A regular ordinance is effective 30 days after adoption. An urgency ordinance is adopted at one meeting and takes effect immediately following a 4/5 vote of the City Council finding that there is a need for the immediate preservation of the public peace, health and safety.

Interim Ordinances/Moratoriums

An interim zoning ordinance is often called a moratorium and takes effect immediately to prohibit a use. Pursuant to Government Code Section 65858, the City may establish a moratorium prohibiting any use that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the City Council, Planning Commission or the Planning Department is considering in order to protect and preserve the public safety, health and welfare. A moratorium lasts only 45 days, but may be extended for up to a total of two (2) years, provided that the current and immediate threat to the public safety, health and welfare still exists, and the City follows the public notice and hearing procedures for extension of the moratorium. Interim ordinances require a 4/5 vote of the City Council.

ENVIRONMENTAL

The moratorium is not subject to CEQA pursuant to Sections 15060(c)(2) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, because it has no potential for resulting in a physical change to the environment, directly or indirectly; rather it prevents changes in the environment pending the completion of the contemplated municipal code review.

DISCUSSION

The City's current rules and regulations pertaining to bingo halls and/or bingo operations are in need of an update and modernization in order to comply with State law. Given that the City has not amended its bingo ordinance since 1980 (nearly 35 years) and the fact that the City has received two applications for new bingo hall operations using new technologies and proposing continued daily uses, the City has established a need to study the impacts of new bingo halls and/or bingo operations as well as the expansion of existing bingo halls and/or bingo operations.

The establishment and/or proliferation of bingo halls and/or bingo operations in the City may have negative public health, safety, and welfare impacts. Bingo halls and/or operations are within a similar vein as internet access businesses and online gaming as it is a form of gambling and are considered illegal lotteries unless conducted in strict conformance with the detailed requirements in the California Penal Code; therefore requiring local jurisdictional control.

In the recent past, the City has had to address criminal activities with other gambling uses such as internet access businesses and card rooms; therefore staff feels that the City should be proactive with these potential issues that may occur at bingo halls and/or bingo operations, particularly given the limited resources of the Police Department. The Police Department recommends adopting the moratorium to allow time to better study the uses and consider appropriate regulations, as opposed to waiting for problems to occur that will tax an already under-staffed Police Department.

Further, other cities such as Pleasant Hill, Concord, and Fairfield, have had incidents involving prostitution, loan-sharking, assaults, theft, and drug dealing, particularly at facilities that appear only to exist for the purpose of running bingo games. A copy of a memo prepared by the Pleasant Hill Police Department is attached (Attachment "F"). Given the criminal activity associated with other gambling uses within the City of Antioch and the issues experienced by other communities, the Police Department is concerned with the public safety, health, and welfare by having an increased demand in services on an already thinly stretched department.

As proposed, the interim urgency ordinance would establish a temporary moratorium on the granting of new permits, licenses, or any other entitlements pertaining to bingo halls and/or operations as well as the expansion of existing bingo halls and/or bingo operations, allowing the City time to study the potential effects of new laws or regulations governing bingo halls and/or bingo operations. Staff is not recommending that the current, occasional bingo games that have been run traditionally on a limited and ancillary basis be closed, but just that they not expand during this moratorium period.

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- Determining whether new bingo halls and/or bingo operations (traditional and remote caller) should be permitted anywhere in the City, and if they are allowed, which zoning districts would be appropriate.
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- Determining whether, in addition to land use regulations, a police licensing process should be established similar to card rooms and computer gaming businesses, which is an approach that other cities have taken.

Urgency Findings

The City presently has two requests received, and anticipates additional requests, for the establishment and operation of bingo halls and/or bingo operations within the City. However, the provisions in the Municipal Code that regulates bingo halls and/or bingo operations in the City are inadequate and need review, study, and revision. The provisions fail to take into consideration the impacts related to the location and manner of the operation of bingo halls and/or bingo operations, and the related public health, safety, and welfare concerns, including, but not limited to the impacts they may have on parking, surrounding uses, and the community.

Given the City's historic criminal activities and land use impacts associated with gambling at internet access businesses and card rooms, and other jurisdictions having land use and/or criminal activity associated with bingo halls and/or bingo operations, the City has concerns with a potential increase in calls for police services and increased criminal activities such as theft, assault, prostitution, loan sharking, and drug dealing. Further study is required to address these potential issues and to create rules and regulations that are fitting for the needs of the City of Antioch to minimize impacts to the public health, safety, and welfare.

Operation of additional bingo halls and/or bingo operations will increase these negative impacts while the use is being studied. Due to the threat posed to the public health, safety, and welfare the City requires additional time to prepare, evaluate, and adopt reasonable regulations regarding the operation of bingo halls and/or bingo operations.

FISCAL IMPACT

There is no direct fiscal impact with the adoption of the proposed Interim Urgency Zoning Ordinance. The organizations that are involved with bingo halls and/or bingo operations are non-profits therefore are exempt from the business license tax. There will be staff time expended to draft a regular ordinance and to prepare a zoning amendment, if appropriate.

OPTIONS

1. If the Council chooses not to adopt the Interim Urgency Zoning Ordinance by 4/5 vote, then additional bingo halls and/or bingo operations could open with the approval of a use permit in any zoning district without the benefit of the City further studying the impacts of these businesses and appropriate land use regulations or police regulatory requirements.

ATTACHMENTS

- A. Interim Urgency Zoning Ordinance prohibiting the issuance of permits, licenses or approvals for construction, establishment or operation of any new bingo halls or operations, or the expansion of current bingo operations, within the City of Antioch on an interim basis pending consideration of amendments to Title 5, Chapter 15 and Title 9 of the Antioch Municipal Code for a period of forty-five days and declaring the urgency thereof
- B. Proposed Bingo Hall Application at 2317 Buchanan Road
- C. Proposed Bingo Hall Application at 201 East Eighteenth Street
- D. Antioch Municipal Code Section 5-15.01
- E. California State Penal Code Section 326.3 – 326.5
- F. Memo of the Pleasant Hill Police Department dated October 3, 2012 regarding issues with Bingo Halls
- G. Newspaper Article on Internet Access Businesses and Gambling

ATTACHMENT "A"

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH ADOPTING AN INTERIM URGENCY ZONING ORDINANCE PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65858 PROHIBITING THE ISSUANCE OF PERMITS, LICENSES OR APPROVALS FOR CONSTRUCTION, ESTABLISHMENT OR OPERATION OF NEW BINGO HALLS OR OPERATIONS, OR THE EXPANSION OF CURRENT BINGO OPERATIONS, WITHIN THE CITY ON AN INTERIM BASIS PENDING CONSIDERATION OF AMENDMENTS TO TITLE 5, CHAPTER 15 AND TITLE 9 OF THE ANTIOCH MUNICIPAL CODE FOR A PERIOD OF FORTY-FIVE DAYS AND DECLARING THE URGENCY THEREOF

The City Council of the City of Antioch does ordain as follows:

SECTION 1. Interim Urgency Zoning Ordinance. This ordinance is adopted pursuant to the authority of Section 65858 of the Government Code of the State of California, the Antioch City Municipal Code and applicable laws.

SECTION 2. Findings. The Antioch City Council hereby finds, determines and declares as follows:

A. The City of Antioch may make and enforce all laws and regulations not in conflict with the general laws, and the City holds all rights and powers established by state law.

B. The City has received and anticipates additional requests for the construction, establishment and operation of bingo halls and/or bingo operations within the City. However, the provisions of the City Municipal Code that may regulate the construction, operation, and establishment of bingo halls and/or bingo operations in the City are inadequate and need review, study, and revision. The current provisions also fail to fully take into account the impacts related to the location and manner of construction, establishment and operation of bingo halls and/or bingo operations, and the related public health, safety, and welfare concerns, including but not limited to the impacts they may have on parking, surrounding uses, and the community.

C. The City of Antioch is aware that other cities, including Pleasant Hill, Concord and Fairfield, have experienced land use impacts and/or criminal activity associated with bingo halls and/or bingo operations, including incidents involving assaults, theft, prostitution, loan-sharking and drug dealing. These impacts are set forth in more detail in the staff report and attachments provided to the City Council at the July 22, 2014 meeting (<http://www.ci.antioch.ca.us/CityGov/agendas/default.asp>). These impacts have particularly occurred at facilities that appear only to exist for the purpose of running continual bingo games, as distinguished from occasional bingo games operated as an ancillary or occasional use at an established non-profit location.

D. The City is not aware of any currently operating bingo halls in Antioch at facilities that exist only for the purpose of running continual bingo games, as distinguished

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from occasional bingo games currently operating as an ancillary use at a few established non-profit locations in the City. The City Council of the City of Antioch is concerned with the potential increased calls for police services, increasing reports of assaults, theft, loan sharking behavior, prostitution and drug dealing and related detrimental neighborhood effects associated with bingo halls and/or expanded bingo operations, particularly at facilities that appear only to exist for the purpose of running continual bingo games. The potential for increased calls for police service is of particular concern given the current staffing of the Antioch Police Department and challenges in responding to existing criminal activity in the community. (see Police Department presentations at the City Council meetings on July 22, 2014 and April 22, 2014 at <http://www.ci.antioch.ca.us/CityGov/agendas/default.asp>)

E. Under California Constitution and Penal Code, bingo games are illegal lotteries unless conducted in strict conformance with the detailed requirements in the Penal Code. In addition, there would be further State requirements if a city is going to allow remote caller bingo.

F. While the City's Municipal Code does nominally address bingo operations in the City, that section of the Code has not been revised or updated in nearly 35 years, despite revisions to the State Penal Code regarding bingo games during this period.

G. During the past several years, the City has faced similar land use impacts and criminal activity at computer gaming and internet access businesses, leading the City to adopt a moratorium and eventually regular ordinances to address those issues (see the attached and incorporated staff reports, resolutions and ordinances at <http://www.ci.antioch.ca.us/CityGov/agendas/CityCouncil/2012/agendas/022812/022812.pdf> ; <http://www.ci.antioch.ca.us/CityGov/agendas/CityCouncil/2013/agendas/012213/012213.pdf> ; <http://www.ci.antioch.ca.us/CityGov/agendas/CityCouncil/2013/agendas/111213/111213.pdf>). In addition, the City has also been required to address issues regarding card rooms and illegal activity occurring at those establishments (see the attached and incorporated staff report, resolution and newspaper article regarding Kelly's Card Room in Antioch at <http://www.ci.antioch.ca.us/CityGov/agendas/CityCouncil/2013/agendas/111213/111213.pdf>; http://www.justice.gov/usao/can/news/2014/2014_04_25_keslinke.charged.press.html). These computer gaming and internet access businesses, card rooms and continual or expanded bingo operations all raise some similar issues regarding gambling and the criminal and secondary land use impacts of gambling.

H. Without the enactment of this Ordinance, multiple applicants could quickly receive entitlements which would allow additional bingo halls and/or bingo operations that pose a threat to the public health, safety, and welfare. The City Council hereby determines that the Municipal Code is in need of updating to protect the public against health, safety, and welfare dangers caused by bingo halls and/or bingo operations. The City requires additional time to prepare, evaluate and adopt reasonable regulations regarding the construction, placement and operation of bingo halls and/or bingo operations so that such regulations are applied in a nondiscriminatory manner.

I. In order to prevent the frustration of these studies and the implementation of new regulations, the public interest, health, safety, and welfare require immediate enactment of this Ordinance. The absence of this Ordinance would impair the orderly and effective implementation of contemplated Municipal Code amendments, and any further authorization of these uses within the City during the period of the interim zoning regulations may be in conflict with or may frustrate the contemplated updates and revisions of the Municipal Code.

J. Based on the foregoing, the City finds that there is a current and immediate threat to the public health, safety, or welfare and that this Ordinance is necessary in order to protect the City from the potential effects and impacts of bingo halls and/or bingo operations in the City, potential increases in crime, impacts on parking availability in the business areas of the City, the aesthetic impacts to the City, and other similar or related effects on property values and the quality of life in the City's neighborhoods.

K. The City Council further finds that this interim zoning regulation is a matter of local and City-wide importance and is not directed towards any particular business that currently seeks to construct or operate bingo halls and/or bingo operations.

L. The City Council finds that this Ordinance is authorized by the City's police powers. The City Council further finds that the length of the interim zoning regulations imposed by this Ordinance will not in any way deprive any person of rights granted by state or federal laws, because the interim zoning regulation is short in duration and essential to protect the public health, safety and welfare.

SECTION 3. Imposition of Temporary Moratorium.

A. In accordance with the authority granted the City under Government Code section 65858, and pursuant to the findings stated herein, the City Council hereby (1) finds that there exists a current and immediate threat to the public health, safety, and welfare requiring this change in the City's permitting provisions for bingo halls and/or bingo operations, (2) further finds that this ordinance is necessary for the immediate preservation of the public peace, health and safety, and (3) hereby declares and imposes a temporary moratorium for the immediate preservation of the public health, safety and welfare as set forth below.

B. The City orders as follows: For a period of forty-five (45) days from and after the date of adoption of this Ordinance, no permits (including use permits, conditional use permits, special or temporary permits) or other applicable use entitlement (including variances, building permits, certificates of occupancy or business licenses) may be issued for the establishment or operation of a new bingo halls and/or bingo operations within the City, except as otherwise provided for herein. In addition, no existing bingo halls and/or bingo operations may be relocated or expanded, whether by means of additional space, construction of new facility, reconfiguration of existing facility, additional equipment, or additional days or hours of operation.

C. The moratorium set forth above shall not apply to the renewal of any existing business license for bingo halls and/or bingo operations or existing bingo halls and/or bingo

operations permit issued under Title 5, Chapter 15 of the Antioch Municipal Code provided the renewal seeks to maintain the business in the existing location with no expansion in use or facilities, whether by means of additional space, construction of new facility, reconfiguration of existing facility, additional equipment, or additional days or hours of operation.

SECTION 4. CEQA. This ordinance is not subject to CEQA pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, because it has no potential for resulting in a physical change to the environment, directly or indirectly; rather it prevents changes in the environment pending the completion of the contemplated municipal code review.

SECTION 5. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 6. Effective Date. This interim ordinance shall take effect immediately upon its adoption and shall continue in effect for forty-five (45) days from the date of its adoption by not less than a four-fifths vote of the Antioch City Council, and shall thereafter be of no further force and effect, unless, after notice pursuant to Government Code Section 65090 and public hearing, the Antioch City Council extends this Ordinance, and the interim zoning regulations adopted thereby, pursuant to Government Code Section 65858.

SECTION 7. Report of Council. Ten days prior to the expiration of this Ordinance, or any extension thereof, this Council shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of this ordinance, or any extension thereof.

SECTION 8. Declaration of Urgency. This ordinance is hereby declared to be an urgency measure necessary for the immediate protection of the public health, safety and welfare. This Council hereby finds that there is a current and immediate threat to the public health, safety and welfare. The reasons for this urgency are declared and set forth in Section 2 of this Ordinance and are incorporated herein by reference.

SECTION 9. Publication; Certification. The City Clerk shall certify to the adoption of this Ordinance and cause same to be published in accordance with State law.

* * * * *

I HEREBY CERTIFY that the foregoing Ordinance was introduced and adopted as an urgency ordinance pursuant to the terms of California Government Code Section 65858 at a regular meeting of the City Council of the City of Antioch on the 22nd day of July, 2014, by the following vote:

- AYES:**
- NOES:**
- ABSENT:**
- ABSTAIN:**

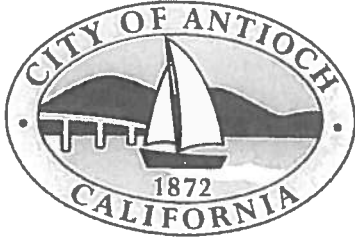
Wade Harper, Mayor of the City of Antioch

ATTEST:

Arne Simonsen, City Clerk of the City of Antioch

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ATTACHMENT "B"



DEVELOPMENT APPLICATION

Community Development Department
P.O. Box 5007

Third & "H" Streets
Antioch, CA 94531-5007

Phone: (925) 779-7035 Fax: (925) 779-7034

SITE LOCATION: 2317 Buchanan Rd #A Antioch CA 9453

ASSESORS PARCEL NO. (S): 076432022 TOTAL ACREAGE: .5301

BRIEF DESCRIPTION OF REQUEST: 23,089 SF

Non-Profit Bldg

PROPERTY OWNER OF RECORD

Name: Lawrence Leong
Company Name: Excel Financial Management
Address: 25222 Cypress Av
Hayward CA 94544
Telephone No. 510-582-7700
Fax No. 510-786-2605
Email: excel.financial.mgmt@gmail.com
Signature: [Signature]

APPLICANT

Name: TRICIA SIMMONS
Company Name: Patriotic Heart
Address: 300 Carlsbad Village Dr
#154 Suite 108A
Carlsbad CA 92008
Telephone No. 760-730-3734
Cell No. 925-209-8332
Fax No. _____
Email: hirepatriotsup@gmail.com
Signature: _____

ANY OTHER PERSON THAT YOU WOULD LIKE THE CITY OF ANTIOCH TO NOTIFY OF THE PUBLIC HEARING

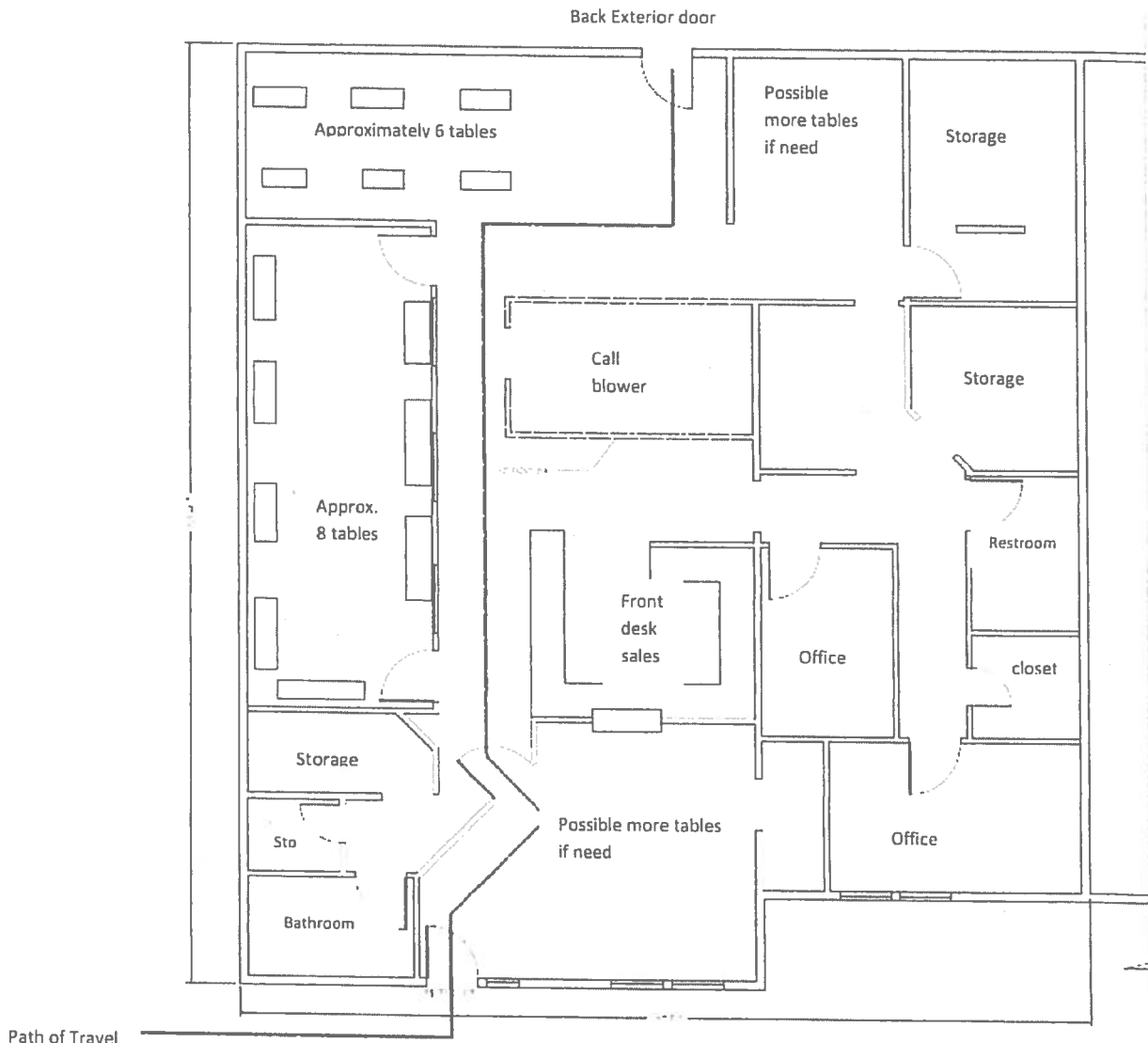
Name: TRICIA SIMMONS
Company Name: Patriotic Heart
Address: 2470 Vallecito Ct
Antioch CA 94531
Telephone No. 925-209-8332
Fax No. _____
Email: hirepatriotsup@gmail.com

AGENT/DESIGNER

Name: None
Company Name: _____
Address: _____
Telephone No. _____
Fax No. _____
Email: _____

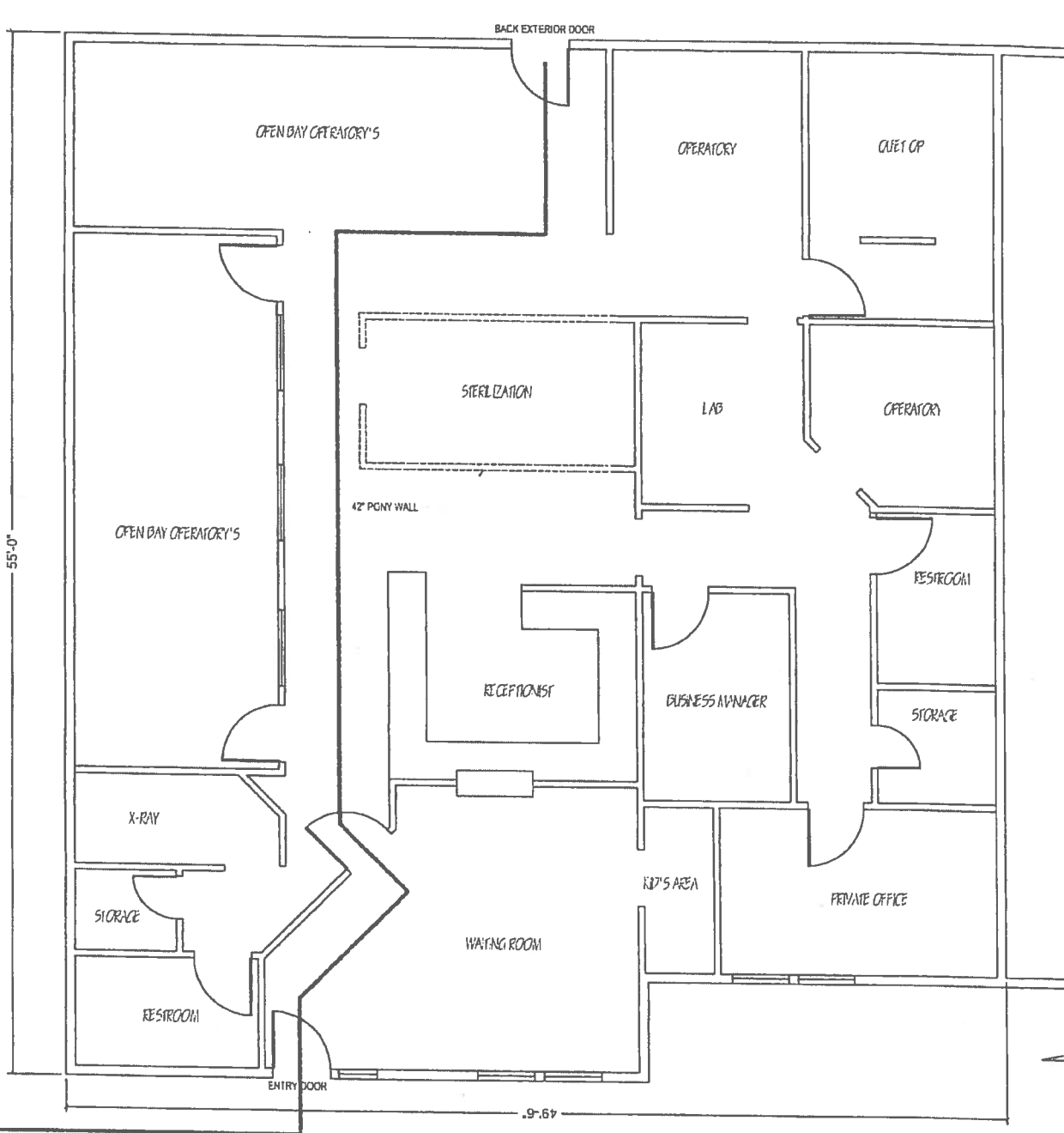
1317 BT

Retail.com



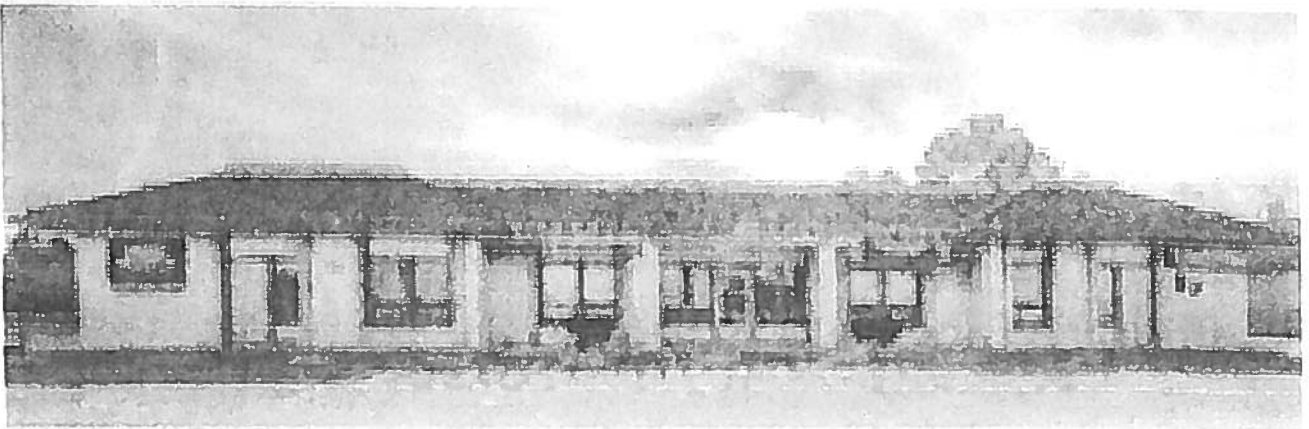
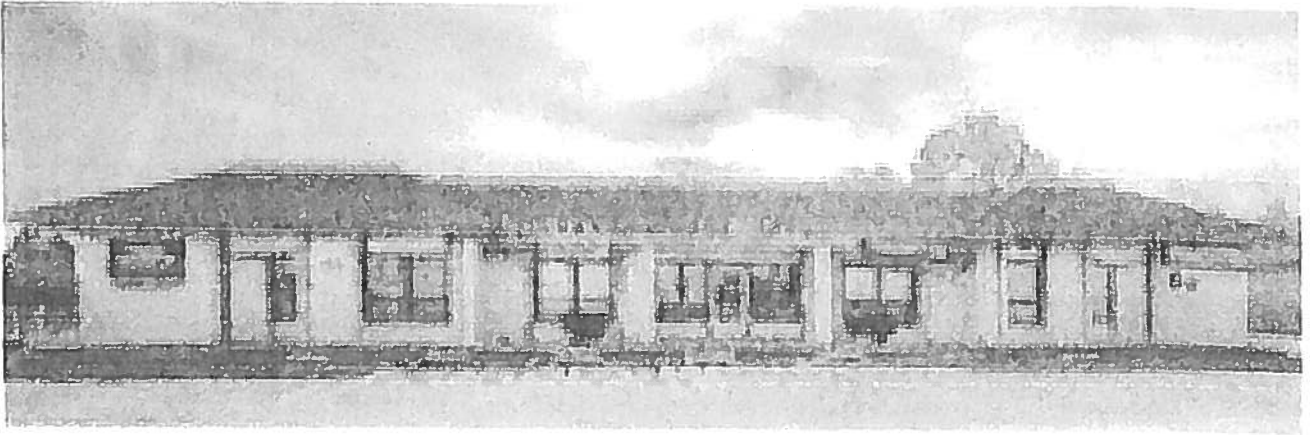
2317 BUCHANAN ROAD SUITE A

B18
BZ



2317 BUCHANAN ROAD SUITE A

B19
B3



B20
B4



B21
B5



B22
B6

Patriotic Heart is a Non-Profit organization that was started in 2007. The Patriot Heart Non-Profit organization would love the opportunity to open a Bingo Hall at, 2317 Buchanan Rd Suit #1 in Antioch Ca 94509. We have followed and reviewed all state regulations to operate a NPO Bingo Hall in the state of California. We do many fundraisers each year and would like to add this to our fundraising portfolio. If allowed to open, we would like to host Bingo games from noon to midnight 7 days a week. Our goal is to have other NPO open a few days/nights a week (they would be responsible to get their own bingo permit from the city) I have had informal talks with a couple local NPO that seem very interested. In the state of California we are aware no one under the age of 18 is allowed in a Bingo Hall, and we will never allow anyone under age or without an ID to be in the building for any reason. There will never be more than seventy people in the building at any given time. The building department has looked at the square footage of the building and said that it would be easily cleared for a maximum of seventy people. There are over ninety immediate parking spaces in front of the building, and another ninety spaces around the area. As a Non-Profit Bingo Hall there is only allowed to be one bingo Director employed, and one Security Guard, to protect the hall and walk people to their cars during open hours. However, we are always looking for new volunteers to help with any fundraiser and would love to get the community involved. We look forward to getting the public and local businesses involved in the Hire Patriots Program.

I have also attached the state of California npo bingo rules that we intend to fallow strictly

B23
BT

Past and current fundraising

As a NPO that has been active for coming up on 8 years we have done countless number of fundraising I will only name a few if you would like more please don't hesitate to ask or visit our web site at www.hirepatriots.com

Donation

Sponsorship

Grants

Advertisement on web site

73% of all top selling book sales "An American Crisis"

Job fairs

Interviews

TV appearances

Local and national

Public/privet appearances

Veterans "Green Project"

Media Package

B24
BB

PATRIOTIC HEARTS' PROGRAMS FOR US VETERANS

- Patriotic Hearts' mission is to provide essential services and assistance to US veterans and their families, and to educate the US citizenry about their valiant sacrifices and value to our nation. Patriotic Hearts is a tax-exempt 501(c) 3 non-profit (EIN 20-8599179) that is supported largely by charitable contributions. It is in "good standing" with the IRS.
- We began as a response to a Marine who returned from Iraq to discover his wife and two small children living without utilities, due to his wife being laid off while he was deployed. He knocked on our founders' door and asked: "Sir, Ma'am, I need to earn some money right away to get the electric and gas turned on in my home for my family. Do you have any work that I can do for you right now around your home or yard?"
- The first program of Patriotic Hearts was a site called HireMarines.com. That became HirePatriots.com. Our first job board was a One Day job board that residents in San Diego used to hire local Marines, Corpsmen and sailors. It was a sensation and received several prestigious awards for the benefit it brought to US veterans, as well as to San Diego's communities and economy. Since, we have expanded this program across America, and we will continue to do so with your participation.
- Our U.S. military, particularly the lower and mid-range enlisted and their families, often endure extreme financial stress, coupled with multiple, lengthy deployments and the rigors of military life. And our transitioning veterans often take years before catching up with their civilian peers and securing sustainable employment. This lengthy financial stress takes its toll. Too often it means that a veteran also loses his family as a part of his or her sacrifice to our country.

In response to this burgeoning crisis, Patriotic Hearts has developed several free programs. -- In recognition of our vital programs President Bush presented us with his "Congressional Medal of Merit." And President Obama awarded us the "Presidents Volunteer Service Medal."

- **Programs Provided by Patriotic Hearts:**
- HirePatriots.com Job Board
- Transitional Preparedness Program
- Military Job Fairs
- Vet-Entrepreneur Mentoring
- Military Marriage Enrichment Retreats
- Financial Wellness Training
- Green Program (Carbon Credits and Recycling)
- Career & Personal counselling & Mentoring
- Sales Training & Placement
- Welcome Home Parties
- Community Service Chapters

B25
89

- School Kids Program
- Educational Endeavours
- Public Speaking & Media Interviews for US veterans
- **HirePatriots.com:** This is our most popular program. It creates daily and vocational opportunities for U.S. military: Active duty, Reserves, Guard, veterans and their spouses. This is a free job board for residents and businesses to hire their local military, veterans and their spouses. We currently have HirePatriots websites in multiple areas of the U.S. This popular program is quickly spreading into every state with the collaboration of veteran owned and patriotic businesses, passionate volunteers, and schools. -- The goal of the HirePatriots program is to establish HirePatriots job boards in all 50 states, near every active US military base and throughout every region. This will enable us to assist hundreds of thousands of U.S. Military: Active duty, Reserves, Guard, veterans and their spouses every year.
- One Day Jobs: HirePatriots is an entirely unique and free national outreach. It provides a One Day job board for our U.S. military, veterans and their spouses. These are jobs posted primarily by patriotic U.S. residents who want a nearby G.I. or veteran to come to their home and help them with chores.

These One Day jobs fill a critical need for transitioning troops and veterans. With 900,000 unemployed U.S. veterans, as of this writing, HirePatriots' One Day jobs give patriotic U.S. residents an opportunity to pitch in and temporarily employ them until they can find full time employment.

But these One Day jobs do far than help our dear veterans financially. These jobs allow them to keep their heads held high. And it keeps their focus where it should be: protecting you and me. But they also help stimulate local economies. And it is a great assistance to senior citizens on limited incomes. Plus, it creates a wonderful bond with citizens and veterans. Here are a few of the thousands of comments from those who post jobs and find jobs on HirePatriots.com:
<http://www.hirepatriots.com/news-and-blogs/entry/what-people-say-about-hirepatriots-job-program>

Careers Job Board: HirePatriots encourages companies to post their jobs on HirePatriots.com. Companies benefit from our niche market. They comment on how they receive far more responses to their jobs from HirePatriots than giants like Monster.com. We use all of our resources to help you fill your positions with qualified personnel. Our job board is connected to Facebook, Twitter and LinkedIn. And we create a permanent blog post of your company too. HirePatriots ranks in the top 1% of all U.S. websites and continues to receive constant media attention. The ultimate goal for HirePatriots is to succeed in helping every U.S. veteran to secure sustainable, full-time employment.

- **Transitional Training:** HirePatriots offers online and on-site training seminars for transitioning military personnel and US veterans. This unique and comprehensive program was developed by a veteran with decades of HR experience. This program was created by Captain Cesar Nader (USMC). Here is a sample video: <http://www.youtube.com/watch?v=FPvpwL6rYQ>

B26
B10

- **Job Fairs:** HirePatriots has hosted many job fairs for the U.S. military and veterans. HirePatriots has a stellar reputation with businesses across America and the world. And of course, we are highly regarded by the U.S. military.
- **Warriors to the Workforce** is comprehensive hiring events that combines pre-interview training and resume writing for veterans. And they also hold events and seminars for the attending employers to help them better appreciate the value of military training and veteran experience. – Lt. General Donald Jones (Army Ret.) and Crystal Dyer (Army Ret.) are the directors of this program. These job fairs are held across the breadth of our nation.
- **Veteran Entrepreneur Mentoring:** HirePatriots vigorously seeks to support veterans who have chosen to start their own businesses. We believe that this is crucial to the rebuilding of the American economy and to employing more of our transitioned U.S. military. HirePatriots has created a valuable training and support program for U.S Veteran entrepreneurs. We use the combined business acumen of our multiple HirePatriots' business leaders to provide step-by-step hands on business development training.
- **Military Marriage Enrichment Retreats:** Our military's emotional and psychological health, as well as their professionalism is largely dependent upon the health of their relationships with their immediate family members. The divorce rate has risen as high as 90% on bases with frequent combat deployments. Military wives call it "The Plague."
- Patriotic Hearts hosts military marriage enrichment retreats to strengthen military and veterans' marriages. The theme of our retreats is "Love and Respect." They last from Friday night until Sunday afternoon. We continue to follow each couple closely after the retreats. And we have had wonderful success in keeping marriages and families united. These are all-expenses paid retreats.
- **Financial Wellness:** Patriotic Hearts provides training on how to manage personal and family income, through seminars, retreats and online. This is a unique and comprehensive 5 point Financial Wellness series of workshop courses that has been specifically designed for veterans, active duty, and military families. It is a customized, financial wellness curriculum that focuses on helping our heroes and their families understand their particular spending personalities. Then we teach the essentials of money management. And we also explain the necessity for multiple streams of income and investment strategies.
- **Career & Personal Counselling:** Many qualified volunteers offer to give professional counselling to US veterans' career search. And marriage counsellors, PTSD experts and licensed psychologists also donate their time and services.

Sales Training & Placement: For US veterans and their spouses who need immediate employment beyond our One Day jobs, we offer professional sales training. HirePatriots has created sales opportunities for these veterans. And we have contracted with companies seeking US veterans' help with marketing their products and services too.

- **Welcome Home Parties:** Patriotic Hearts hosts all-day picnics for recently returned combat battalions. These include barbeques, games, rides, contest, popular personalities and live music for the entire military family. Volunteers from the local community volunteer to serve at these events and they are a wonderful celebration of our warriors and their families.

B27
BTT

- **Community Service Chapters:** The goal of HirePatriots is to create a Nationwide One Day Jobs Safety Net for U.S. veterans and their spouses. To accomplish this goal, we are creating HirePatriots chapters across America. These chapters have their own local, customized HirePatriots website on which they control the content. We seek leaders in these areas to create and manage a volunteer force of veteran supporters. Their mission is simple: Inform the local business and residents about their HirePatriots.com site and job board and get jobs posted for local veterans. Then inform their local veterans and spouses. They also host fundraisers and seek sponsors to provide Patriotic Hearts programs in their areas.

School Kids Program: A wonderful result of our increasing popularity has been that public schools are adopting Patriotic Hearts and HirePatriots as a community service project. These schools receive their own HirePatriots.com website, and the students fill it with their patriotic efforts, essays, videos and pictures. We are also writing a curriculum and a book to promote this program and make it a perpetual part of our American fabric.

Educational Endeavours: In the last 50 years the American population has gone from 90% of American males being US military veterans to less than 1% of our current generation. And further reductions in our nation's Armed Forces are being planned. There now exists a tremendous vacuum of understanding and appreciation for the important role veterans and their families play in keeping America a safe haven for democracy and freedom. In response, Patriotic Hearts trains patriotic citizens to speak and seeks out opportunities on TV, radio, in the press, and at community events, associations, clubs and schools for them to teach about US veterans' sacrifices and critical role in preserving our way of life.

- **In Development:**
- Road Trip for Veterans: HirePatriots is also seeking funds to purchase an RV and to fund a trip to every state in order to get the HirePatriots Job program started for US veterans everywhere. -- This is an opportunity for company sponsorship.
- Wireless for Heroes: Helping Our Heroes One Cell Phone at a Time

BZB
BTZ



ATTACHMENT "C"

DEVELOPMENT APPLICATION

Community Development Department
P.O. Box 5007

Third & "H" Streets

Antioch, CA 94531-5007

Phone: (925) 779-7035 Fax: (925) 779-7034

SITE LOCATION: 201 E-18th STREET

ASSESORS PARCEL NO. (S): 065-164-023

TOTAL ACREAGE: _____

BRIEF DESCRIPTION OF REQUEST: USE BUILDING FOR DRUGO HALL OPERATION

RECEIVED

MAY 28 2014

CITY OF ANTIOCH
COMMUNITY DEVELOPMENT

PROPERTY OWNER OF RECORD

Name: JONAS D & MARIA M TRE

Company Name: 18th ST. PARTNERSHIP

Address: 41386 REDCLOUD CT
RANCOLO, CA 94518-1913

Telephone No. 925 372-6100, 6812

Fax No. 372-4715

Email: _____

Signature: [Signature]
Jonas - 6.18th St Partners

APPLICANT

Name: AL DAVIS

Company Name: IT TAKES A VILLAGE

Address: 4720 FOOTHILL BLVD
OAKLAND, CA 94601

Telephone No. 510-467-7994

Fax No. _____

Email: DAVIS BARBARA 4720 @

Signature: [Signature]

ANY OTHER PERSON THAT YOU WOULD LIKE THE
CITY OF ANTIOCH TO NOTIFY OF THE PUBLIC
HEARING

Name: AL DAVIS

Company Name: _____

Address: 5233 FLEMING AVE.
OAKLAND, CA 94619

Telephone No. 580-706-4562

Fax No. (510) 261-4602

Email: DAVIS 52 @ COMCAST.NET

AGENT/DESIGNER

Name: AL DAVIS

Company Name: ADL LIMITED

Address: 5233 FLEMING AVE
OAKLAND, CA 94619

Telephone No. 510-706-4562

Fax No. 510-261-4602

Email: DAVIS 52 @ COMCAST.NET

B29
AT



May 26, 2014

RECEIVED

MAY 28 2014

Executive Summary

CITY OF ANTIOCH
COMMUNITY DEVELOPMENT

"It Takes a Village Development Center (ITAV)", is a Non-profit organization formed for the express purpose of operating and managing bingo halls in the San Francisco Bay Area Under the rulings of California Attorney General Guideline (Daniel E. Lungren and Deputy Attorney Clayton P. Roche, December 1998 and subsequently reviewed and reaffirmed by California Governor Edmund G. Brown, Jr. in 2007). Their ruling is that electronic hand devices are legal in California. (See Appendix A)

Thus, It Takes a Village Development Center is formally submitting an application to operate and manage a Bingo Hall in an existing facility located at 201 E. 18th Street, Antioch, California. The attached building and layout drawings provided would meet the guidelines for the planned operation of the facility, for the purpose of offering charity bingo programs to the community of Antioch. It is proposed to operate four days a week Wednesday through Saturday, 4:30 PM until approximately 10:00 PM.

To assist ITAV, they have employed the services of a consultant firm, skilled in project development, implementation and on-going monitoring of both the financial and physical strength of the Non-Profit organization's day to day operations. The consultant firm's resumes are attached for reference.

The City was selected by ITAV's Executive staff and Board of Directors, after a lengthy study of the city of Antioch's demographics, which points to a combined influx of new residents from other communities seeking affordable housing costs; and the previous severe cut backs by City, State and Federal governments' funding sources. The community of Antioch is in need of alternative solutions to some of its economic challenges. There already exists some form of bingo and card room facility in the surrounding communities of Pittsburg, Brentwood, Oakley, Bethel Island, and similar locations. However, neither offers the depth of service, and commitment to adequately tap the hidden resources for community support, as those proposed by ITAV.

B30
CZ

Market Area:

The demographics of the city of Antioch as of 2010 have a population of 102,372. The ethnic make-up is:

White	38.6%
Hispanic	31.5%
Afro American	15.1%
Asian	7.2%
Two or More	6.1%
Other Race	0.07%
Native American	0.06%
Hawaiian & Pacific Islander	0.1%

High Schools

Public	8
Private	3

Elementary Schools

Public	10
Private	5

Proposed Infusion of Capital:

ITAV is proposing to invest upward of \$3,010,888.80 in year one, to acquire and start operate of the Bingo Hall.

It is projected, that this amount should generate conservatively, \$10,044,000.00 annually. Of this amount, \$572,214.00 in donations can go directly to Schools, Youth and Senior programs.

Additionally, 18 new full and part time jobs can be created for the communities of Antioch, Oakley, Brentwood, Pittsburg, and Bethel Island. At least 5 secondary economic spend offs will be needed to support the Bingo Hall Management and Operation.

B31
A3

Security:

Of major concern will be the security deployed to deter or minimize the opportunity for robbery and theft in an establishment that will be dealing with significant sums of cash on a daily basis. Therefore, attention has been given to how best to warrant against such occurrences. This issue is being addressed as the "first line of defense" and is reflected in the budget (See Pro forma sheets). Thus, the following is planned:

- Hire certified armed security guards, with number determined by capacity of facility.
- Install surveillance cameras at strategic locations throughout the facility, both inside and outside, particularly where cash transactions are taking place.
- Contract with a money transportation company such as Loomis, to pick up and deliver money to and from a FDIC institution on a daily basis.
- Install change counting machine and a "Bill" counting machine that is capable of detecting counterfeit bills immediately.
- Ongoing training and monitoring for staff and volunteers selling special game cards and pull tabs.

Medical Considerations:

Due to the fact that a larger number of Bingo Players appear to be senior citizens, the Managers are also installing at least one **defibrillator**, provided for Medical EMTs, or at a minimum, have a certified CPR person during all Bingo sessions.

Planned Donation Opportunities from Bingo Operation:

The largest benefit of being allowed to operate a Bingo Hall lies in the ability of the Non-profit organization to provide a mechanism to morally, legally and ethically distribute funds to a large number of other non-profit organizations, who may not have the capability to financially sustain themselves. Some of these non-profits are, Diverse ethnic groups, Public Schools, Boys and Girls Clubs, Senior Centers, Foundations, Arts and Repertory Groups, Scouting programs, Church food programs, Battered Women and Children Shelters, and Youth sports programs are but a few of the programs that are being reduced or eliminated due to Federal and State Government cut backs. Such cutbacks negatively impact our communities and provide fewer, if any alternatives for relief.

Our strategy is to use profits from operation of the Bingo Halls to make up the shortfall in our communities.

Exit Strategy:

At the end of the life of the Non-Profit, a decision will be made to liquidate commercial properties through distribution of assets to a non-profit organization and/or "shareholders" or exercise option to renew the Non-profit under new management. This is a "Buy Out" opportunity for new investor(s).

Management Team:

CEO and Fund Manager, Funding Wealth Capital, LLC

AL DAVIS

After serving 10 years in the United States Air Force, Mr. Davis started a new career in the Construction Industry. This was the result of not being able to find suitable employment to support his newly acquired family after his military career. Reflecting upon two of his earlier childhood experiences, the first seeing his step-father building their first house from adobe, straw and railroad ties at the age of five or six; and second, having learned Architectural drafting in High School. These influences set in motion, perhaps unconsciously, a career in Designer and Developer. Mr. Davis' first venture was his participation in the development of a Modular Home Manufacturing Company in Benicia, California in 1963. At the time housing was on the up rise and new and innovative experimental methods of construction were being developed in the housing construction industry. During the two years of operation of DGH Industries, the company manufactured dozens of houses in the plant that was ultimately shipped to building sites. Each 1,100 to 1,500 square foot house was erected on site, finished and ready for occupancy in less than 45 working days. Unions were not ready for this in those days.

After closing of the plant in Benicia, Mr. Davis moved to Richmond California, where he operated a freelance Housing Design service. This ultimately led to acquiring a General Contractor's License for commercial and residential properties. These two combined careers resulted in acquiring an in-depth knowledge of the various aspects associated with the building industry which included planning, designing, construction cost estimating, building permit processing, building, inspection procedures and "Turn Key" operations.

From 1964 through 1979, Mr. Davis worked for four U.S. Presidential Administrations (Presidents Johnson, Nixon, Ford and Carter) in Contract Evaluation Analyst for the Department of Labor, Department of Commerce and Department Education's Office of Child Development, Head Start and Supplemental Training. During this period of time, Mr. Davis also provided free consultant services to building contractors and homeowners involved in remodeling and construction projects in various communities in the United States.

Between 1972 and 1984, Mr. Davis was engaged in the development of the Bay Area Purchasing Council, where he served two terms as President of the Purchasing Council. The Council's objective during that time period was to provide contracting opportunities to Black and Hispanic contractors, Engineers, Architects, Certified Public Accountants, and support services to Private Industry, State and Federal Governments The high point in this endeavor was in May 1976, generating over \$5,000,000 in contracts being awarded to black and Hispanic contractors by private, State and Federal contracting agencies, in a span of three days.

Mr. Davis returned to the building industry in 1986, by remodeling and adding onto his own home in Oakland, California. He was also an Executive Director of a federally funded non-profit organization.

Mr. Davis retired from active participation in the construction industry in 1999.

His prior experiences lead to the development authoring and publishing of four significant books associated with the building industry. These publications were: "The Source Exchange Guide" Published by Source Publications, Inc. 1973 to 1984; and "Owner-Builders Work Book for Remodeling House Moving" editions, 1989, 2000 and 2005. In addition, Mr. Davis has authored two non-construction related publications.

Mr. Davis is currently the Chief Operating Officer of ADC Limited, LLC, which is a management training and technical assistant firm, engaged in improving communications between home owners and general contractors during construction engagements. This company was born out of the desire to minimize the conflict that occurs between homeowners and general contractors. Most conflicts result in three issues:

- 1) Homeowners losing money, or property loss resulting from litigation;
- 2) General contractors losing licenses resulting from faulty work, lack of work and in some cases, no work at all; and
- 3) Lending institutions, insurance and bonding companies losing money, resulting from the former two issues; leading to the development of a Real Estate Investment Company.

Mr. Davis also operates several other internet marketing companies, including: www.adcbuildersseminar.com; and www.fundingwealthcapital.com. Mr. Davis has two children, eight grandchildren, and two great grandchildren, all living in California. His hobbies include flying, fishing, coaching and sports.

President and Fund Manager

LEONA GREENLOW-TURNER

Mrs. Greenlow-Turner is a Bay Area Realtor, specializing in the listing and sale of distressed properties. She works with several prominent lending institutions (Chase, Indy Mac, Bank of America, and Wells Fargo) in the evaluation of their residential and commercial real estate assets.

The beginning of her career included telecommunications, banking and financial planning industries. Every career opportunity has led her to teaching those around her vital technical skills necessary for their careers. Her area of expertise is coaching new entrepreneurs in starting and maintaining new business ventures.

With this training background, she began creating custom training materials and classes. She has taught and created technical courses over the past 20 years. She brings real estate insight to Funding Wealth Capital, LLC with her extensive training and real estate expertise. Additionally, she provides sound financial guidelines regarding profit, losses, income and expenditures for Funding Wealth Capital, LLC and other companies hired by FWC, LLC in a consultant capacity.

She has created three feature courses for Funding Wealth Capital, LLC:

1. Tax Deed and Tax Lien Investing (the course includes training and one-on-one coaching.)
2. Investing in California Short Sales
3. Bingo Hall Operations

Mrs. Greenlow-Turner is the mother of four and grandmother of four. Her hobbies include reading and studying the Bible, writing, blogging, knitting and sewing. She currently serves as Parent Teacher Association (PTA) President at a prominent Oakland Elementary school.

The following additional resumes are available to Subscriber upon request:

- Real Estate Attorney
- Certified Public Accountant
- Mortgage Broker
- Administrator and Business Development Consultant

For more detailed information, or to request a full disclosure of the Private Placement Memorandum (PPM) from www.FundingWealthCapital.com, please email your request to: info@FundingWealthCapital.com or call (510)706-4562



Date: May 26, 2014

Barbara Davis, Executive Director

“It Takes a Village Development Center”



Date: 5/24/14

Al Davis, Project Consultant (Not Related to Exc. Dir.)

CEO: Funding Wealth Capital, LLC

Appendix A

Electronic Handheld Devices

Traditional bingo is a game of chance where players pay a bingo hall an entrance fee for game cards to play several bingo games. Players can play multiple cards at the same time to increase their chance at winning games. Bingo cards consist of 24 random numbers and a free space in the center. During the game a caller calls random numbers from a bingo blower. The caller calls each number as it comes up until a player announces "bingo". Once the winning combination is established as a winning bingo, the winner is paid.

Section 326.5 specifies precisely what the game of bingo is that is permitted under these conditions. Subdivision (o) of California Penal Code section 326.5 provides: (o) As used in this section, "bingo" means a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card that conform to numbers or symbols selected at random. Notwithstanding Section 330c, as used in this section, the game of bingo includes cards having numbers or symbols that are concealed and preprinted in a manner providing for distribution of prizes. The winning cards shall not be known prior to the game by any person.

Currently, bingo halls are using a combination of paper cards and electronic handheld devices to play bingo. Electronic handheld devices are used as an aid to notify the player of a winning card. The serial numbers of each bingo card are programmed into the handheld device. These devices do not require any additional financial investment from the players. Electronic handheld devices and paper games are the same game and are played simultaneously.

In 1991, State Attorney General, Dan Lungren said, "Lungren's directive--sent Tuesday to the state's district attorneys, city attorneys, sheriffs and chiefs of police--noted that the only gambling machines legal in California are "actual facsimiles of the game of bingo," such as terminals that enable players to keep track of 250 bingo cards at once. "All other machines are illegal," Lungren said."

"During the 20-year period which has followed the Attorney General's (Lungren) opinion quoted above, the Legislature has amended Penal Code section 326.5 twice, but it has not amended the section to authorize electronic bingo. It has, however, amended subdivision (o), containing the definition of bingo, but notably, it has made no change to the elements of the definition itself. Accordingly, subdivision (o) of section 326.5, as quoted above, continues to prescribe the elements of the game that is permissible as bingo, conducted by organizations authorized by section 326.5, subdivision (a)."

"The Attorney General (Edmund G. Brown, Jr., 2007), however, has subsequently concluded that in games in which players purchase and receive traditional bingo cards, the use of an

electronic aid to notify the player of a winning card is **not prohibited**. The Attorney General concluded that under these circumstances, "the combined use of the electronic aid and traditional cards will allow each player to meet the requirements of subdivision (o), since the 'designated numbers or symbols' are 'on a card' as well as being programmed into the electronic aid." (81 Ops.Cal.Atty.Gen 415, at p. 417 (1998).)"

With the handheld electronic bingo device players can play as many bingo cards as they can afford since monitoring each bingo card is no longer a problem. All it takes for a bingo player to do is to key in the numbers being drawn into the portable handheld electronic device and the computer will automatically search for these numbers from the bingo card of the players then daub it in their behalf.

This type of electronic bingo device has a tracking system that automatically monitors the bingo cards of the player making it plausible for its players to play multiple bingo cards simultaneously. The best thing about electronic bingo device is the opportunity it gives to bingo players with physical disabilities to play bingo with less efforts and added convenience.

References:

Subdivision (o) of section 326.5 defines "bingo" as follows:

"As used in this section 'bingo' means a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card that conform to numbers or symbols selected at random. Notwithstanding Section 330c, as used in this section, the game of bingo includes cards having numbers or symbols which are concealed and preprinted in a manner providing for distribution of prizes. The winning cards shall not be known prior to the game by any person participating in the playing or operation of the bingo game. All preprinted cards shall bear the legend, 'for sale or use only in a bingo game authorized under California law and pursuant to local ordinance.' It is the intention of the Legislature that bingo as defined in this subdivision applies exclusively to this section and shall not be applied in the construction or enforcement of any other provision of law."

"We believe that when bingo players purchase and receive traditional bingo cards, the use of electronic aids in conjunction therewith to ascertain when a game has been won does not remove the game from the scope of section 326.5. The courts have ruled similarly in somewhat analogous situations. (See *Lubavitch Congregation v. City of Long Beach* (1990) 217 Cal.App.3d 1388; *People v. 8,000 Punchboard Card Devices* (1983) 142 Cal.App.3d 618.) We conclude that the requirements of section 326.5, subdivision (o), are satisfied when bingo players use, in conjunction with traditional bingo cards, electronic aids to notify them when a game has been won."

B37
CA

**Proposed Bingo Hall
201 E 18th Street
Antioch, CA 94509**

"Scope of Work"

Change of Occupancy:

Remodel structure to meet to compliance to meet Fire Code and ADA requirement to use as Bingo Hall; remove non bearing wall on south side of building; relocate and modify electrical; install new framing of non bearing walls per plans.



Legend

- Page 1 Cover sheet
- Page 2 Parking (Existing)
- Page 3 Site/Land
- Page 4 New Electrical Plan
- Page 5 Interior
- Page 6 Fire Escape Plan
- Page 7 ADA Requirements
- Page 8 Security/Surveillance cameras

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MAY 22 2014

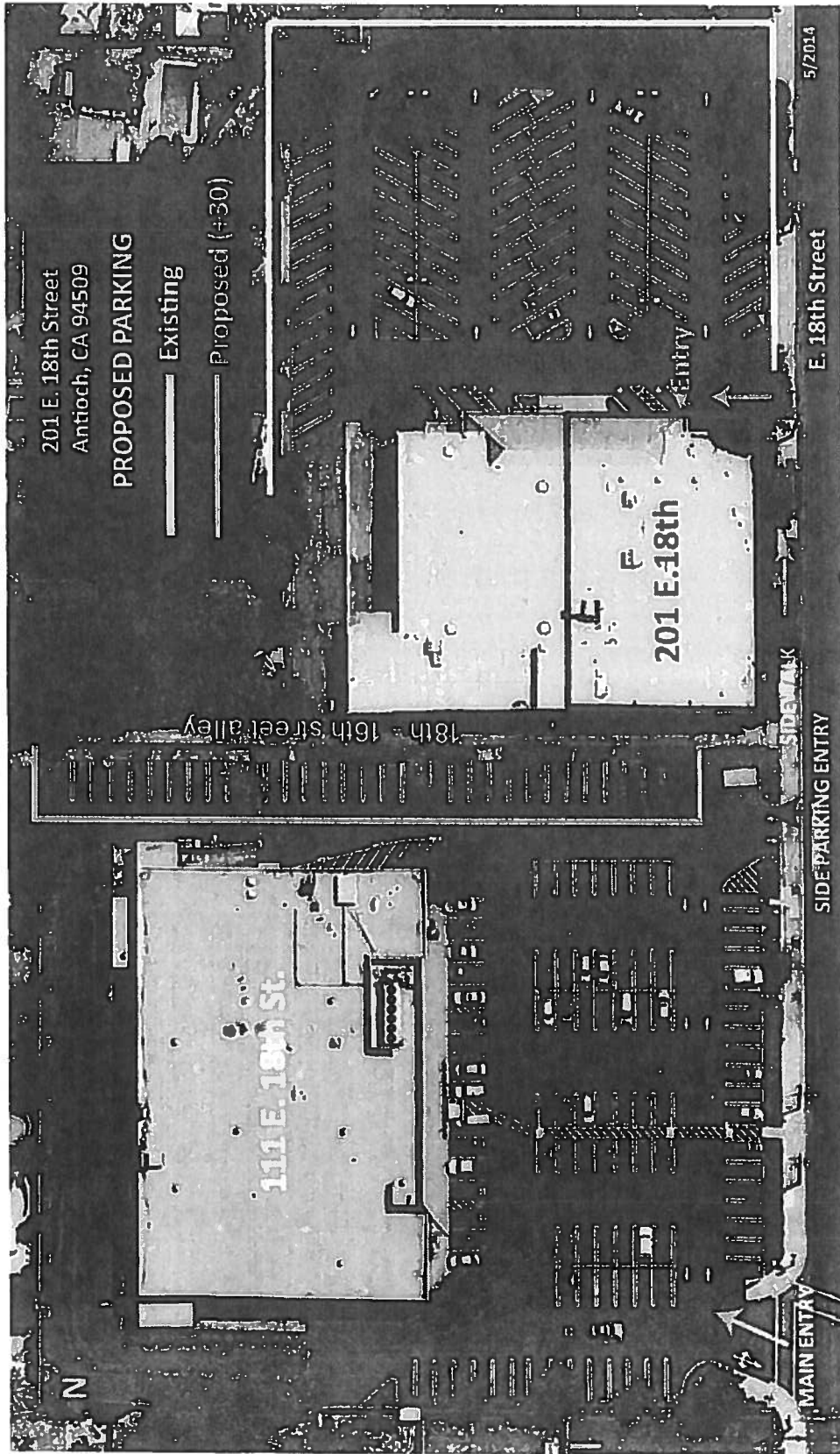
CITY OF ANTIOCH
COMMUNITY DEVELOPMENT

APN: 065-164-023

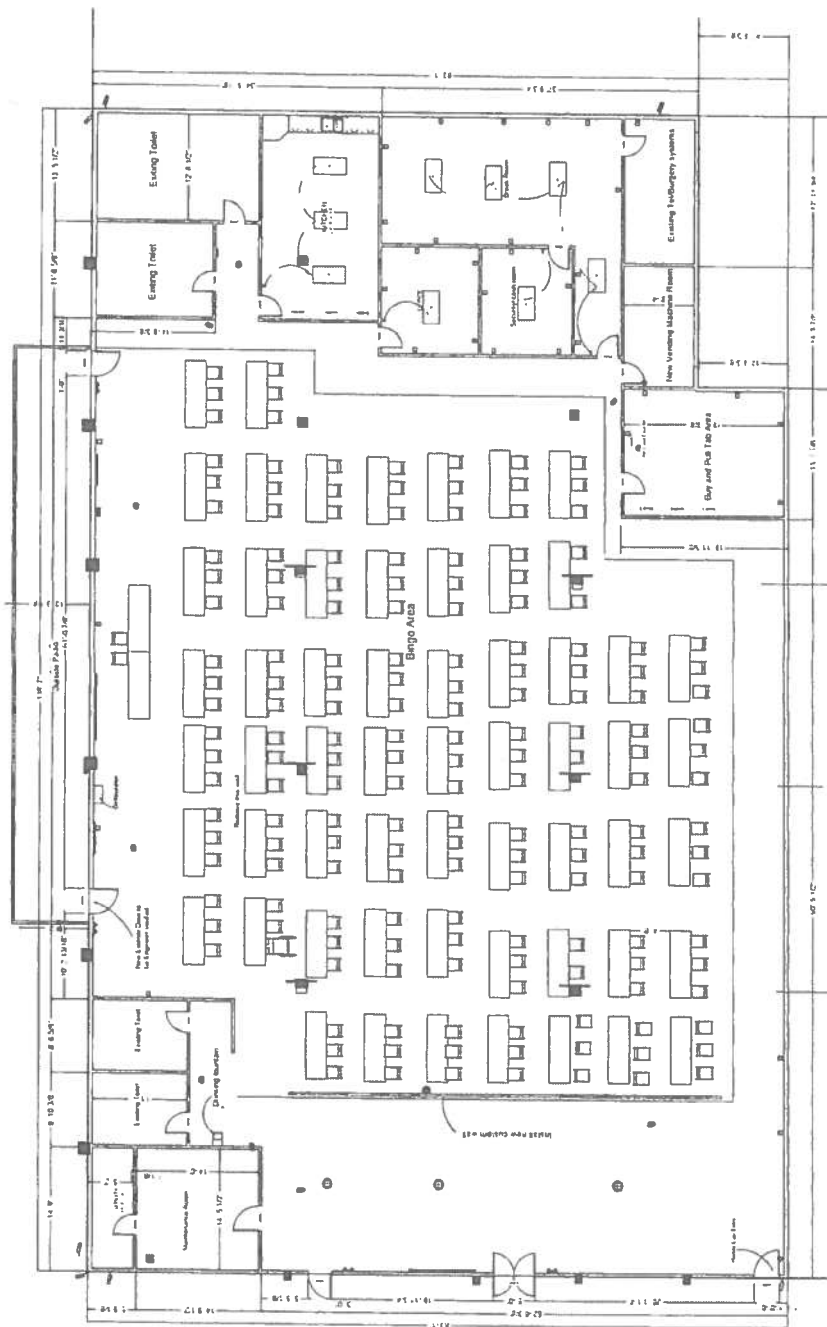
201 E 18th Street

Commercial Property

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Capacity: 54 tables with 3 persons per one side of table for a total low of 162 participants to a maximum of both side of table for max.324 individuals.

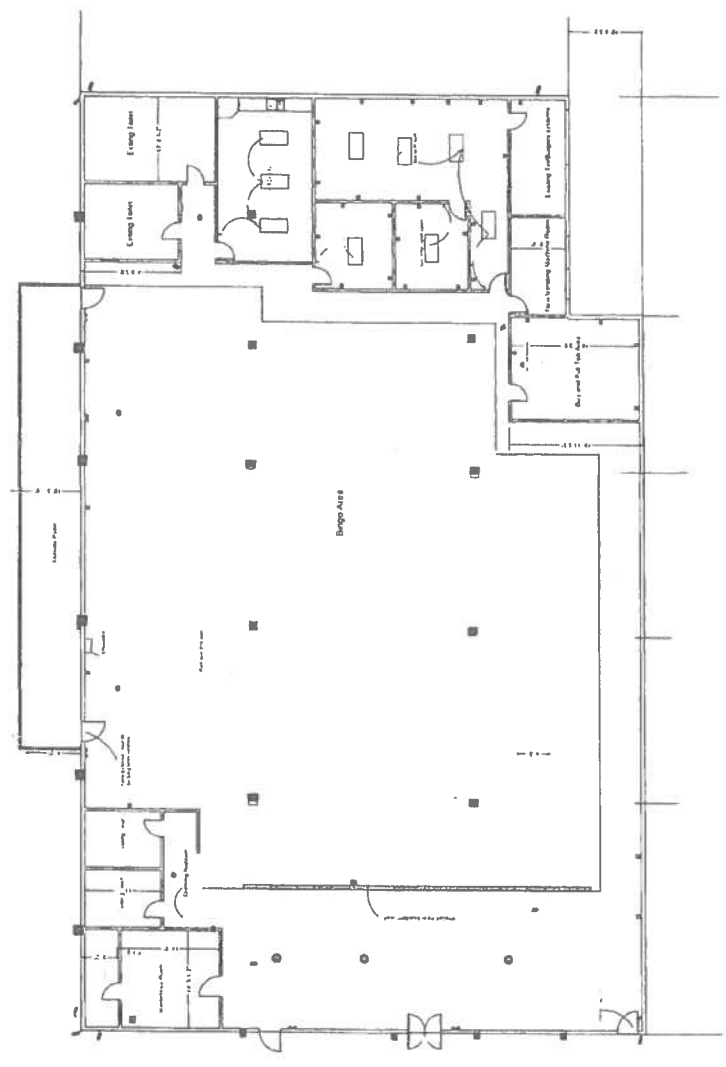
Security protection
5 Armed Guards
Money Transporters
11 Security Cameras
4 Exterior Security Cameras
6 security Monitors

Material and Labor
Estimates
Archit
Permits/ Fees
972 Square yards of Carpet
Electrical
Plumbing
Mechanical
Finishing

Bingo Electronic
Hand Held Devices

Equip with WiFi and 3 modems equally spaced.
Emergency Phone 911
Install Cabinet for Defiliator on wall behind Caller's Table.
one EMT or CPR Tech per each Session.

B40
AZ



New Electrical Plan
Scale 1/8" = 1'-0"

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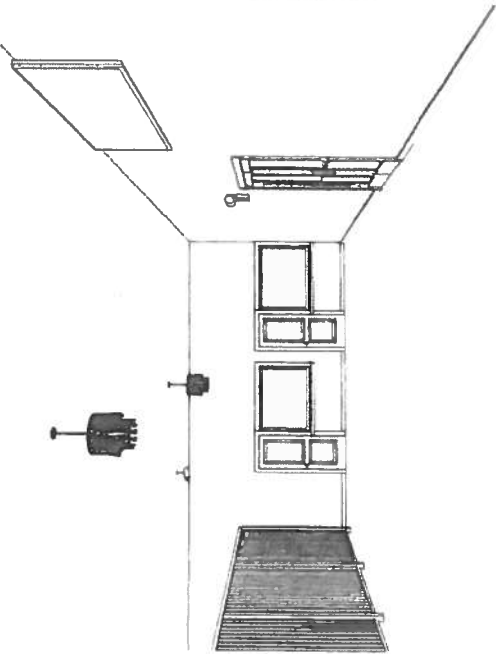
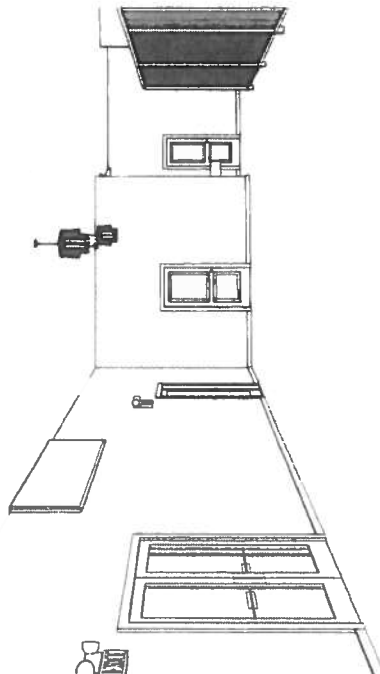
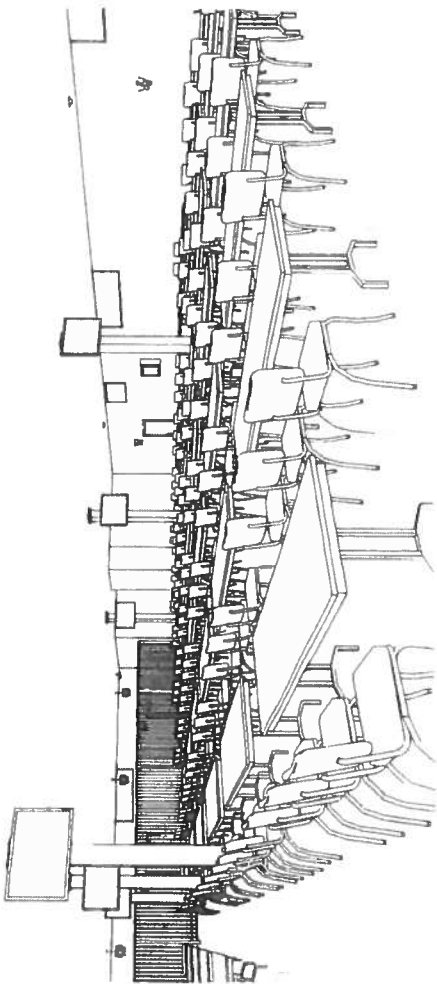
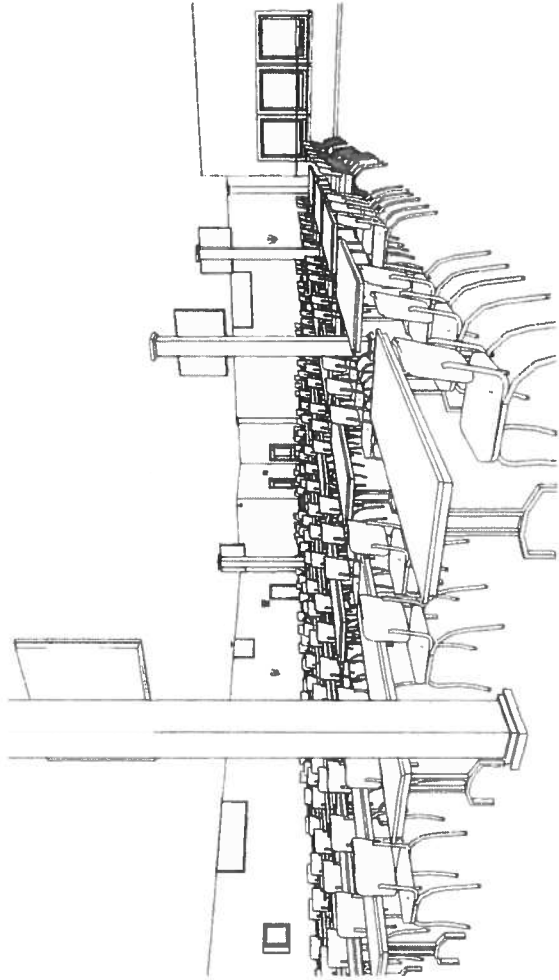
5/27/2014

DESIGN BY:

201 E 18th Street Antioch_auto_save_bak

ADC Limited
3542 Fruitvale Avenue#306
Oakland, CA 94602
510-706-4562

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ATTACHMENT "D"

Antioch, CA Code of Ordinances

CHAPTER 15: BINGO GAMES

Section

5-15.01 Bingo games authorized

§ 5-15.01 BINGO GAMES AUTHORIZED.

Any bingo game played pursuant to Cal. Penal Code § 326.5, or successor legislation, is hereby authorized to be conducted within the city.

('66 Code, § 5-15.01) (Ord. 451-C-S, passed 5-22-80)

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ATTACHMENT "E"

326.3. (a) The Legislature finds and declares all of the following:

(1) Nonprofit organizations provide important and essential educational, philanthropic, and social services to the people of the state.

(2) One of the great strengths of California is a vibrant nonprofit sector.

(3) Nonprofit and philanthropic organizations touch the lives of every Californian through service and employment.

(4) Many of these services would not be available if nonprofit organizations did not provide them.

(5) There is a need to provide methods of fundraising to nonprofit organizations to enable them to provide these essential services.

(6) Historically, many nonprofit organizations have used charitable bingo as one of their key fundraising strategies to promote the mission of the charity.

(7) Legislation is needed to provide greater revenues for nonprofit organizations to enable them to fulfill their charitable purposes, and especially to meet their increasing social service obligations.

(8) Legislation is also needed to clarify that existing law requires that all charitable bingo must be played using a tangible card and that the only permissible electronic devices to be used by charitable bingo players are card-minding devices.

(b) Neither the prohibition on gambling in this chapter nor in Chapter 10 (commencing with Section 330) applies to any remote caller bingo game that is played or conducted in a city, county, or city and county pursuant to an ordinance enacted under Section 19 of Article IV of the California Constitution, if the ordinance allows a remote caller bingo game to be played or conducted only in accordance with this section, including the following requirements:

(1) The game may be conducted only by the following organizations:

(A) An organization that is exempted from the payment of the taxes imposed under the Corporation Tax Law by Section 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l, or 23701w of the Revenue and Taxation Code.

(B) A mobilehome park association.

(C) A senior citizens' organization.

(D) Charitable organizations affiliated with a school district.

(2) The organization conducting the game shall have been incorporated or in existence for three years or more.

(3) The organization conducting the game shall be licensed pursuant to subdivision (1) of Section 326.5.

(4) The receipts of the game shall be used only for charitable purposes. The organization conducting the game shall determine the disbursement of the net receipts of the game.

(5) The operation of bingo may not be the primary purpose for which the organization is organized.

(c) (1) A city, county, or city and county may adopt an ordinance in substantially the following form to authorize remote caller bingo in accordance with the requirements of subdivision (b):

Sec. __.01. Legislative Authorization.

This chapter is adopted pursuant to Section 19 of Article IV of the California Constitution, as implemented by Sections 326.3 and 326.4 of the Penal Code.

Sec. __.02. Remote Caller Bingo Authorized.

Remote Caller Bingo may be lawfully played in the [City, County,

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or City and County] pursuant to the provisions of Sections 326.3 and 326.4 of the Penal Code, and this chapter, and not otherwise.

Sec. __.03. Qualified Applicants: Applicants for Licensure.

(a) The following organizations are qualified to apply to the License Official for a license to operate a bingo game if the receipts of those games are used only for charitable purposes:

(1) An organization exempt from the payment of the taxes imposed under the Corporation Tax Law by Section 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l, or 23701w of the Revenue and Taxation Code.

(2) A mobilehome park association of a mobilehome park that is situated in the [City, County, or City and County].

(3) Senior citizen organizations.

(4) Charitable organizations affiliated with a school district.

(b) The application shall be in a form prescribed by the License Official and shall be accompanied by a nonrefundable filing fee in an amount determined by resolution of the [Governing Body of the City, County, or City and County] from time to time. The following documentation shall be attached to the application, as applicable:

(1) A certificate issued by the Franchise Tax Board certifying that the applicant is exempt from the payment of the taxes imposed under the Corporation Tax Law pursuant to Section 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l, or 23701w of the Revenue and Taxation Code. In lieu of a certificate issued by the Franchise Tax Board, the License Official may refer to the Franchise Tax Board's Internet Web site to verify that the applicant is exempt from the payment of the taxes imposed under the Corporation Tax Law.

(2) Other evidence as the License Official determines is necessary to verify that the applicant is a duly organized mobilehome park association of a mobilehome park situated in the [City, County, or City and County].

Sec. __.04. License Application: Verification.

The license shall not be issued until the License Official has verified the facts stated in the application and determined that the applicant is qualified.

Sec. __.05. Annual Licenses.

A license issued pursuant to this chapter shall be valid until the end of the calendar year, at which time the license shall expire. A new license shall only be obtained upon filing a new application and payment of the license fee. The fact that a license has been issued to an applicant creates no vested right on the part of the licensee to continue to offer bingo for play. The [Governing Body of the City, County, or City and County] expressly reserves the right to amend or repeal this chapter at any time by resolution. If this chapter is repealed, all licenses issued pursuant to this chapter shall cease to be effective for any purpose on the effective date of the repealing resolution.

Sec. __.06. Conditions of Licensure.

(a) Any license issued pursuant to this chapter shall be subject to the conditions contained in Sections 326.3 and 326.4 of the Penal Code, and each licensee shall comply with the requirements of those provisions.

(b) Each license issued pursuant to this chapter shall be subject to the following additional conditions:

(1) Bingo games shall not be conducted by any licensee on more than two days during any week, except that a licensee may hold one additional game, at its election, in each calendar quarter.

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(2) The licensed organization is responsible for ensuring that the conditions of this chapter and Sections 326.3 and 326.4 of the Penal Code are complied with by the organization and its officers and members. A violation of any one or more of those conditions or provisions shall constitute cause for the revocation of the organization's license. At the request of the organization, the [Governing Body of the City, County, or City and County] shall hold a public hearing before revoking any license issued pursuant to this chapter.

(3) This section shall not require a city, county, or city and county to use this model ordinance in order to authorize remote caller bingo.

(d) It is a misdemeanor for any person to receive or pay a profit, wage, or salary from any remote caller bingo game, provided that administrative, managerial, technical, financial, and security personnel employed by the organization conducting the bingo game may be paid reasonable fees for services rendered from the revenues of bingo games, as provided in subdivision (1), except that fees paid under those agreements shall not be determined as a percentage of receipts or other revenues from, or be dependent on the outcome of, the game.

(e) A violation of subdivision (d) shall be punishable by a fine not to exceed ten thousand dollars (\$10,000), which fine shall be deposited in the general fund of the city, county, or city and county that enacted the ordinance authorizing the remote caller bingo game. A violation of any provision of this section, other than subdivision (d), is a misdemeanor.

(f) The city, county, or city and county that enacted the ordinance authorizing the remote caller bingo game, or the Attorney General, may bring an action to enjoin a violation of this section.

(g) No minors shall be allowed to participate in any remote caller bingo game.

(h) A remote caller bingo game shall include only sites that are located within this state.

(i) An organization authorized to conduct a remote caller bingo game pursuant to subdivision (b) shall conduct the game only on property that is owned or leased by the organization, or the use of which is donated to the organization. This subdivision shall not be construed to require that the property that is owned or leased by, or the use of which is donated to, the organization be used or leased exclusively by, or donated exclusively to, that organization.

(j) (1) All remote caller bingo games shall be open to the public, and shall not be limited to the members of the authorized organization.

(2) No more than 750 players may participate in a remote caller bingo game in a single location.

(3) If the Governor or the President declares a state of emergency in response to a natural disaster or other public catastrophe occurring in California, an organization authorized to conduct remote caller bingo games may, while that declaration is in effect, conduct a remote caller bingo game pursuant to this section with more than 750 participants in a single venue if the net proceeds of the game, after deduction of prizes and overhead expenses, are donated to or expended exclusively for the relief of the victims of the disaster or catastrophe, and the organization gives, for each participating remote caller bingo site, the department and local law enforcement at least 10 days' written notice of the intent to conduct that game.

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(4) For each participating remote caller bingo site, an organization authorized by the commission to conduct remote caller bingo games shall provide the department and local law enforcement with at least 30 days' advance written notice of its intent to conduct a remote caller bingo game. That notice shall include all of the following:

(A) The legal name of the organization and the address of record of the agent upon whom legal notice may be served.

(B) The locations of the caller and remote players, whether the property is owned by the organization or donated, and if donated, by whom.

(C) The name of the licensed caller and site manager.

(D) The names of administrative, managerial, technical, financial, and security personnel employed.

(E) The name of the vendor and any person or entity maintaining the equipment used to operate and transmit the game.

(F) The name of the person designated as having a fiduciary responsibility for the game pursuant to paragraph (2) of subdivision (k).

(G) The license numbers of all persons specified in subparagraphs (A) to (F), inclusive, who are required to be licensed.

(H) A copy of the local ordinance for any city, county, or city and county in which the game will be played. The department shall post the ordinance on its Internet Web site.

(I) A copy of the license issued to the organization by the governing body of the city, county, or city and county pursuant to subdivision (b).

(k) (1) A remote caller bingo game shall be operated and staffed only by members of the authorized organization that organized it. Those members shall not receive a profit, wage, or salary from any remote caller bingo game. Only the organization authorized to conduct a remote caller bingo game shall operate that game, or participate in the promotion, supervision, or any other phase of a remote caller bingo game. Subject to subdivision (m), this subdivision shall not preclude the employment of administrative, managerial, technical, financial, or security personnel who are not members of the authorized organization at a location participating in the remote caller bingo game by the organization conducting the game. Notwithstanding any other law, exclusive or other agreements between the authorized organization and other entities or persons to provide services in the administration, management, or conduct of the game shall not be considered a violation of the prohibition against holding a legally cognizable financial interest in the conduct of the remote caller bingo game by persons or entities other than the charitable organization, or other entity authorized to conduct the remote caller bingo games, if those persons or entities obtain the gambling licenses, the key employee licenses, or the work permits required by, and otherwise comply with, Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code. Fees to be paid under those agreements shall be reasonable and shall not be determined as a percentage of receipts or other revenues from, or be dependent on the outcome of, the game.

(2) An organization that conducts a remote caller bingo game shall designate a person as having fiduciary responsibility for the game.

(1) No individual, corporation, partnership, or other legal entity, except the organization authorized to conduct or participate in a remote caller bingo game, shall hold a legally cognizable

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financial interest in the conduct of that game.

(m) An organization authorized to conduct a remote caller bingo game pursuant to this section shall not have overhead costs exceeding 20 percent of gross sales, except that the limitations of this section shall not apply to one-time, nonrecurring capital acquisitions. For purposes of this subdivision, "overhead costs" includes, but is not limited to, amounts paid for rent and equipment leasing and the reasonable fees authorized to be paid to administrative, managerial, technical, financial, and security personnel employed by the organization pursuant to subdivision (d). For the purpose of keeping its overhead costs below 20 percent of gross sales, an authorized organization may elect to deduct all or a portion of the fees paid to financial institutions for the use and processing of credit card sales from the amount of gross revenues awarded for prizes. In that case, the redirected fees for the use and processing of credit card sales shall not be included in "overhead costs" as defined in the California Remote Caller Bingo Act. Additionally, fees paid to financial institutions for the use and processing of credit card sales shall not be deducted from the proceeds retained by the charitable organization.

(n) A person shall not be allowed to participate in a remote caller bingo game unless the person is physically present at the time and place where the remote caller bingo game is being conducted. A person shall be deemed to be physically present at the place where the remote caller bingo game is being conducted if he or she is present at any of the locations participating in the remote caller bingo game in accordance with this section.

(o) (1) An organization shall not cosponsor a remote caller bingo game with one or more other organizations unless one of the following is true:

(A) All of the cosponsors are affiliated under the master charter or articles and bylaws of a single organization.

(B) All of the cosponsors are affiliated through an organization described in paragraph (1) of subdivision (b), and have the same Internal Revenue Service activity code.

(2) Notwithstanding paragraph (1), a maximum of 10 unaffiliated organizations described in paragraph (1) of subdivision (b) may enter into an agreement to cosponsor a remote caller game, but that game shall have no more than 10 locations.

(3) An organization shall not conduct remote caller bingo more than two days per week.

(4) Before sponsoring or operating any game authorized under paragraph (1) or (2), each of the cosponsoring organizations shall have entered into a written agreement, a copy of which shall be provided to the department, setting forth how the expenses and proceeds of the game are to be allocated among the participating organizations, the bank accounts into which all receipts are to be deposited and from which all prizes are to be paid, and how game records are to be maintained and subjected to annual audit.

(p) The value of prizes awarded during the conduct of any remote caller bingo game shall not exceed 37 percent of the gross receipts for that game. When an authorized organization elects to deduct fees paid for the use and processing of credit card sales from the amount of gross revenues for that game awarded for prizes, the maximum amount of gross revenues that may be awarded for prizes shall not exceed 37 percent of the gross receipts for that game, less the amount of redirected fees paid for the use and processing of credit

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card sales. Every remote caller bingo game shall be played until a winner is declared. Progressive prizes are prohibited. The declared winner of a remote caller bingo game shall provide his or her identifying information and a mailing address to the onsite manager of the remote caller bingo game. Prizes shall be paid only by check; no cash prizes shall be paid. The organization conducting the remote caller bingo game may issue a check to the winner at the time of the game, or may send a check to the declared winner by United States Postal Service certified mail, return receipt requested. All prize money exceeding state and federal exemption limits on prize money shall be subject to income tax reporting and withholding requirements under applicable state and federal laws and regulations and those reports and withholding shall be forwarded, within 10 business days, to the appropriate state or federal agency on behalf of the winner. A report shall accompany the amount withheld identifying the person on whose behalf the money is being sent. Any game interrupted by a transmission failure, electrical outage, or act of God shall be considered void in the location that was affected. A refund for a canceled game or games shall be provided to the purchasers.

(q) (1) The commission shall require the licensure of the following:

(A) Any person who contracts to conduct remote caller bingo on behalf of an organization described in subdivision (b) or who is identified as having fiduciary responsibility for the game pursuant to subdivision (k).

(B) Any person who directly or indirectly manufactures, distributes, supplies, vends, leases, or otherwise provides supplies, devices, services, or other equipment designed for use in the playing of a remote caller bingo game by any organization described in subdivision (b).

(C) Beginning January 31, 2009, or a later date as may be established by the commission, all persons described in subparagraph (A) or (B) may submit to the commission a letter of intent to submit an application for licensure. The letter shall clearly identify the principal applicant, all categories under which the application will be filed, and the names of all those particular individuals who are applying. Each charitable organization shall provide an estimate of the frequency with which it plans to conduct remote caller bingo operations, including the number of locations. The letter of intent may be withdrawn or updated at any time.

(2) (A) Background investigations related to remote caller bingo conducted by the department shall be in accordance with the Gambling Control Act (Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code) and as specified in regulations promulgated by the commission or the department.

(B) Fees to cover background investigation costs shall be paid and accounted for in accordance with Section 19867 of the Business and Professions Code.

(3) (A) Every application for a license or approval by a person described in subparagraph (A) of paragraph (1) shall be submitted to the department and accompanied by a nonrefundable fee.

(B) Fees and revenue collected pursuant to this paragraph shall be deposited in the California Bingo Fund, which is hereby created in the State Treasury. The funds deposited in the California Bingo Fund shall be available, upon appropriation by the Legislature, for expenditure by the commission and the department exclusively for the support of the commission and department in carrying out their duties

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and responsibilities under this section and Section 326.5.

(C) A loan is hereby authorized from the Gambling Control Fund to the California Bingo Fund on or after January 1, 2009, in an amount of up to five hundred thousand dollars (\$500,000) to fund operating, personnel, and other startup costs incurred by the commission and department relating to this section. Funds from the California Bingo Fund shall be available to the commission and department upon appropriation by the Legislature in the annual Budget Act. The loan shall be subject to all of the following conditions:

(i) The loan shall be repaid to the Gambling Control Fund as soon as there is sufficient money in the California Bingo Fund to repay the amount loaned, but no later than July 1, 2019.

(ii) Interest on the loan shall be paid from the California Bingo Fund at the rate accruing to moneys in the Pooled Money Investment Account.

(iii) The terms and conditions of the loan are approved, prior to the transfer of funds, by the Department of Finance pursuant to appropriate fiscal standards.

The commission and department may assess and collect reasonable fees and deposits as necessary to defray the costs of regulation and oversight.

(D) Notwithstanding any other law, the loan authorized by Provision 1 of Item 0855-001-0567 of the Budget Act of 2009, in the amount of four hundred fifty-seven thousand dollars (\$457,000), shall be repaid no later than July 1, 2019.

(E) The licensing fee for any person or entity that directly or indirectly manufactures, distributes, supplies, vends, leases, or otherwise provides supplies, devices, services, or other equipment designed for use in the playing of a remote caller bingo game by any nonprofit organization shall be in an amount determined by the department, not to exceed the reasonable regulatory costs to the department and in accordance with regulations adopted pursuant to this chapter. Prior to the adoption of the regulations, the nonrefundable license fee shall be the amount of the reasonable regulatory costs to the department, not to exceed three thousand dollars (\$3,000) per year.

(r) The administrative, managerial, technical, financial, and security personnel employed by an organization that conducts remote caller bingo games shall apply for, obtain, and thereafter maintain valid work permits, as defined in Section 19805 of the Business and Professions Code.

(s) An organization that conducts remote caller bingo games shall retain records in connection with the remote caller bingo game for five years.

(t) (1) All equipment used for remote caller bingo shall be certified as compliant with regulations adopted by the department by a manufacturing expert recognized by the department. Certifications shall be submitted to the department prior to the use of any equipment subject to this subdivision.

(2) The department may monitor operation of the transmission and other equipment used for remote caller bingo, and monitor the game.

(u) (1) As used in this section, "remote caller bingo game" means a game of bingo, as defined in subdivision (o) of Section 326.5, in which the numbers or symbols on randomly drawn plastic balls are announced by a natural person present at the site at which the live game is conducted, and the organization conducting the bingo game uses audio and video technology to link any of its in-state

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facilities for the purpose of transmitting the remote calling of a live bingo game from a single location to multiple locations owned, leased, or rented by that organization, or as described in subdivision (o) of this section. The audio or video technology used to link the facilities may include cable, Internet, satellite, broadband, or telephone technology, or any other means of electronic transmission that ensures the secure, accurate, and simultaneous transmission of the announcement of numbers or symbols in the game from the location at which the game is called by a natural person to the remote location or locations at which players may participate in the game. The drawing of each ball bearing a number or symbol by the natural person calling the game shall be visible to all players as the ball is drawn, including through a simultaneous live video feed at remote locations at which players may participate in the game.

(2) The caller in the live game must be licensed by the California Gambling Control Commission. A game may be called by a nonlicensed caller if the drawing of balls and calling of numbers or symbols by that person is observed and personally supervised by a licensed caller.

(3) Remote caller bingo games shall be played using traditional paper or other tangible bingo cards and daubers, and shall not be played by using electronic devices, except card-minding devices, as described in paragraph (1) of subdivision (p) of Section 326.5.

(4) Prior to conducting a remote caller bingo game, the organization that conducts remote caller bingo shall submit to the department the controls, methodology, and standards of game play, which shall include, but not be limited to, the equipment used to select bingo numbers and create or originate cards, control or maintenance, distribution to participating locations, and distribution to players. Those controls, methodologies, and standards shall be subject to prior approval by the department, provided that the controls shall be deemed approved by the department after 90 days from the date of submission unless disapproved.

(v) A location shall not be eligible to participate in a remote caller bingo game if bingo games are conducted at that location in violation of Section 326.5 or any regulation adopted by the commission pursuant to Section 19841 of the Business and Professions Code, including, but not limited to, a location at which unlawful electronic devices are used.

(w) (1) The vendor of the equipment used in a remote caller bingo game shall have its books and records audited at least annually by an independent California certified public accountant and shall submit the results of that audit to the department within 120 days after the close of the vendor's fiscal year. In addition, the department may audit the books and records of the vendor at any time.

(2) An authorized organization that conducts remote caller bingo games shall be audited by an independent California certified public accountant at least annually and copies of the audit reports shall be provided to the department within 60 days of completion of the audit report. A city, county, or city and county shall be provided a full copy of the audit or an audit report upon request. The audit report shall account for the annual amount of fees paid to financial institutions for the use and processing of credit card sales by the authorized organization and the amount of fees for the use and processing of credit card sales redirected from "overhead costs" and deducted from the amount of gross revenues awarded for prizes.

(3) The costs of the licensing and audits required by this section

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shall be borne by the person or entity required to be licensed or audited. The audit shall enumerate the receipts for remote caller bingo, the prizes disbursed, the overhead costs, and the amount retained by the nonprofit organization. The department may audit the books and records of an organization that conducts remote caller bingo games at any time.

(4) If the department identifies practices in violation of this section, the license for the audited entity may be suspended pending review and hearing before the commission for a final determination.

(x) (1) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(2) Notwithstanding paragraph (1), if paragraph (1) or (3) of subdivision (u), or the application of either of those provisions, is held invalid, this entire section shall be invalid.

(y) The department shall submit a report to the Legislature, on or before January 1, 2016, on the fundraising effectiveness and regulation of remote caller bingo, and other matters that are relevant to the public interest regarding remote caller bingo.

(z) The following definitions apply for purposes of this section:

(1) "Commission" means the California Gambling Control Commission.

(2) "Department" means the Department of Justice.

(3) "Person" includes a natural person, corporation, limited liability company, partnership, trust, joint venture, association, or any other business organization.

(aa) This section shall become inoperative on July 1, 2016, and, as of January 1, 2017, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2017, deletes or extends the dates on which it becomes inoperative and is repealed.

326.4. (a) Consistent with the Legislature's finding that card-minding devices, as described in subdivision (p) of Section 326.5, are the only permissible electronic devices to be used by charity bingo players, and in an effort to ease the transition to remote caller bingo on the part of those nonprofit organizations that, as of July 1, 2008, used electronic devices other than card-minding devices to conduct games in reliance on an ordinance of a city, county, or city and county that, as of July 1, 2008, expressly recognized the operation of electronic devices other than card-minding devices by organizations purportedly authorized to conduct bingo in the city, county, or city and county, there is hereby created the Charity Bingo Mitigation Fund.

(b) The Charity Bingo Mitigation Fund shall be administered by the Department of Justice.

(c) Mitigation payments to be made by the Charity Bingo Mitigation Fund shall not exceed five million dollars (\$5,000,000) in the aggregate.

(d) (1) To allow the Charity Bingo Mitigation Fund to become immediately operable, five million dollars (\$5,000,000) shall be loaned from the accrued interest in the Indian Gaming Special Distribution Fund to the Charity Bingo Mitigation Fund on or after January 1, 2009, to make mitigation payments to eligible nonprofit organizations. Five million dollars (\$5,000,000) of this loan amount is hereby appropriated to the California Gambling Control Commission

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for the purposes of providing mitigation payments to certain charitable organizations, as described in subdivision (e). Pursuant to Section 16304 of the Government Code, after three years the unexpended balance shall revert back to the Charity Bingo Mitigation Fund.

(2) To reimburse the Special Distribution Fund, those nonprofit organizations that conduct a remote caller bingo game pursuant to Section 326.3 shall pay to the Department of Justice an amount equal to 5 percent of the gross revenues of each remote caller bingo game played until that time as the full advanced amount plus interest on the loan at the rate accruing to moneys in the Pooled Money Investment Account is reimbursed.

(e) (1) An organization meeting the requirements in subdivision (a) shall be eligible to receive mitigation payments from the Charity Bingo Mitigation Fund only if the city, county, or city and county in which the organization is located maintained official records of the net revenues generated for the fiscal year ending June 30, 2008, by the organization from the use of electronic devices or the organization maintained audited financial records for the fiscal year ending June 30, 2008, which show the net revenues generated from the use of electronic devices.

(2) In addition, an organization applying for mitigation payments shall provide proof that its board of directors has adopted a resolution and its chief executive officer has signed a statement executed under penalty of perjury stating that, as of January 1, 2009, the organization has ceased using electronic devices other than card-minding devices, as described in subdivision (p) of Section 326.5, as a fundraising tool.

(3) Each eligible organization may apply to the California Gambling Control Commission no later than January 31, 2009, for the mitigation payments in the amount equal to net revenues from the fiscal year ending June 30, 2008, by filing an application, including therewith documents and other proof of eligibility, including any and all financial records documenting the organization's net revenues for the fiscal year ending June 30, 2008, as the California Gambling Control Commission may require. The California Gambling Control Commission is authorized to access and examine the financial records of charities requesting funding in order to confirm the legitimacy of the request for funding. In the event that the total of those requests exceeds five million dollars (\$5,000,000), payments to all eligible applicants shall be reduced in proportion to each requesting organization's reported or audited net revenues from the operation of electronic devices.

326.45. Up to five hundred thousand dollars (\$500,000), as determined by order of the Director of Finance, is hereby appropriated from the California Bingo Fund to the California Gambling Control Commission for use in the 2008-09 fiscal year for the purposes described in subparagraph (C) of paragraph (3) of subdivision (q) of Section 326.3.

326.5. (a) Neither the prohibition on gambling in this chapter nor in Chapter 10 (commencing with Section 330) applies to any bingo game

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that is conducted in a city, county, or city and county pursuant to an ordinance enacted under Section 19 of Article IV of the State Constitution, if the ordinance allows games to be conducted only in accordance with this section and only by organizations exempted from the payment of the bank and corporation tax by Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701w, and 23701l of the Revenue and Taxation Code and by mobilehome park associations, senior citizens organizations, and charitable organizations affiliated with a school district; and if the receipts of those games are used only for charitable purposes.

(b) It is a misdemeanor for any person to receive or pay a profit, wage, or salary from any bingo game authorized by Section 19 of Article IV of the State Constitution. Security personnel employed by the organization conducting the bingo game may be paid from the revenues of bingo games, as provided in subdivisions (j) and (k).

(c) A violation of subdivision (b) shall be punishable by a fine not to exceed ten thousand dollars (\$10,000), which fine is deposited in the general fund of the city, county, or city and county that enacted the ordinance authorizing the bingo game. A violation of any provision of this section, other than subdivision (b), is a misdemeanor.

(d) The city, county, or city and county that enacted the ordinance authorizing the bingo game may bring an action to enjoin a violation of this section.

(e) Minors shall not be allowed to participate in any bingo game.

(f) An organization authorized to conduct bingo games pursuant to subdivision (a) shall conduct a bingo game only on property owned or leased by it, or property whose use is donated to the organization, and which property is used by that organization for an office or for performance of the purposes for which the organization is organized. Nothing in this subdivision shall be construed to require that the property owned or leased by, or whose use is donated to, the organization be used or leased exclusively by, or donated exclusively to, that organization.

(g) All bingo games shall be open to the public, not just to the members of the authorized organization.

(h) A bingo game shall be operated and staffed only by members of the authorized organization that organized it. Those members shall not receive a profit, wage, or salary from any bingo game. Only the organization authorized to conduct a bingo game shall operate such a game, or participate in the promotion, supervision, or any other phase of a bingo game. This subdivision does not preclude the employment of security personnel who are not members of the authorized organization at a bingo game by the organization conducting the game.

(i) Any individual, corporation, partnership, or other legal entity, except the organization authorized to conduct a bingo game, shall not hold a financial interest in the conduct of a bingo game.

(j) With respect to organizations exempt from payment of the bank and corporation tax by Section 23701d of the Revenue and Taxation Code, all profits derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. Those profits shall be used only for charitable purposes.

(k) With respect to other organizations authorized to conduct bingo games pursuant to this section, all proceeds derived from a bingo game shall be kept in a special fund or account and shall not

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be commingled with any other fund or account. Proceeds are the receipts of bingo games conducted by organizations not within subdivision (j). Those proceeds shall be used only for charitable purposes, except as follows:

(1) The proceeds may be used for prizes.

(2) (A) Except as provided in subparagraph (B), a portion of the proceeds, not to exceed 20 percent of the proceeds before the deduction for prizes, or two thousand dollars (\$2,000) per month, whichever is less, may be used for the rental of property and for overhead, including the purchase of bingo equipment, administrative expenses, security equipment, and security personnel.

(B) For the purposes of bingo games conducted by the Lake Elsinore Elks Lodge, a portion of the proceeds, not to exceed 20 percent of the proceeds before the deduction for prizes, or three thousand dollars (\$3,000) per month, whichever is less, may be used for the rental of property and for overhead, including the purchase of bingo equipment, administrative expenses, security equipment, and security personnel. Any amount of the proceeds that is additional to that permitted under subparagraph (A), up to one thousand dollars (\$1,000), shall be used for the purpose of financing the rebuilding of the facility and the replacement of equipment that was destroyed by fire in 2007. The exception to subparagraph (A) that is provided by this subparagraph shall remain in effect only until the cost of rebuilding the facility is repaid, or January 1, 2019, whichever occurs first.

(3) The proceeds may be used to pay license fees.

(4) A city, county, or city and county that enacts an ordinance permitting bingo games may specify in the ordinance that if the monthly gross receipts from bingo games of an organization within this subdivision exceed five thousand dollars (\$5,000), a minimum percentage of the proceeds shall be used only for charitable purposes not relating to the conducting of bingo games and that the balance shall be used for prizes, rental of property, overhead, administrative expenses, and payment of license fees. The amount of proceeds used for rental of property, overhead, and administrative expenses is subject to the limitations specified in paragraph (2).

(1) (1) A city, county, or city and county may impose a license fee on each organization that it authorizes to conduct bingo games. The fee, whether for the initial license or renewal, shall not exceed fifty dollars (\$50) annually, except as provided in paragraph (2). If an application for a license is denied, one-half of any license fee paid shall be refunded to the organization.

(2) In lieu of the license fee permitted under paragraph (1), a city, county, or city and county may impose a license fee of fifty dollars (\$50) paid upon application. If an application for a license is denied, one-half of the application fee shall be refunded to the organization. An additional fee for law enforcement and public safety costs incurred by the city, county, or city and county that are directly related to bingo activities may be imposed and shall be collected monthly by the city, county, or city and county issuing the license; however, the fee shall not exceed the actual costs incurred in providing the service.

(m) A person shall not be allowed to participate in a bingo game, unless the person is physically present at the time and place where the bingo game is being conducted.

(n) The total value of prizes available to be awarded during the conduct of any bingo games shall not exceed five hundred dollars

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(\$500) in cash or kind, or both, for each separate game which is held.

(o) As used in this section, "bingo" means a game of chance in which prizes are awarded on the basis of designated numbers or symbols that are marked or covered by the player on a tangible card in the player's possession and that conform to numbers or symbols, selected at random and announced by a live caller. Notwithstanding Section 330c, as used in this section, the game of bingo includes tangible cards having numbers or symbols that are concealed and preprinted in a manner providing for distribution of prizes. Electronics or video displays shall not be used in connection with the game of bingo, except in connection with the caller's drawing of numbers or symbols and the public display of that drawing, and except as provided in subdivision (p). The winning cards shall not be known prior to the game by any person participating in the playing or operation of the bingo game. All preprinted cards shall bear the legend, "for sale or use only in a bingo game authorized under California law and pursuant to local ordinance." Only a covered or marked tangible card possessed by a player and presented to an attendant may be used to claim a prize. It is the intention of the Legislature that bingo as defined in this subdivision applies exclusively to this section and shall not be applied in the construction or enforcement of any other provision of law.

(p) (1) Players who are physically present at a bingo game may use hand-held, portable card-minding devices, as described in this subdivision, to assist in monitoring the numbers or symbols announced by a live caller as those numbers or symbols are called in a live game. Card-minding devices may not be used in connection with any game where a bingo card may be sold or distributed after the start of the ball draw for that game. A card-minding device shall do all of the following:

- (A) Be capable of storing in the memory of the device bingo faces of tangible cards purchased by a player.
- (B) Provide a means for bingo players to input manually each individual number or symbol announced by a live caller.
- (C) Compare the numbers or symbols entered by the player to the bingo faces previously stored in the memory of the device.
- (D) Identify winning bingo patterns that exist on the stored bingo faces.

(2) A card-minding device shall perform no functions involving the play of the game other than those described in paragraph (1). Card-minding devices shall not do any of the following:

- (A) Be capable of accepting or dispensing any coins, currency, or other representative of value or on which value has been encoded.
- (B) Be capable of monitoring any bingo card face other than the faces of the tangible bingo card or cards purchased by the player for that game.
- (C) Display or represent the game result through any means, including, but not limited to, video or mechanical reels or other slot machine or casino game themes, other than highlighting the winning numbers or symbols marked or covered on the tangible bingo cards or giving an audio alert that the player's card has a prize-winning pattern.
- (D) Determine the outcome of any game or be physically or electronically connected to any component that determines the outcome of a game or to any other bingo equipment, including, but not limited to, the ball call station, or to any other card-minding

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device. No other player-operated or player-activated electronic or electromechanical device or equipment is permitted to be used in connection with a bingo game.

(3) (A) A card-minding device shall be approved in advance by the department as meeting the requirements of this section and any additional requirements stated in regulations adopted by the department. Any proposed material change to the device, including any change to the software used by the device, shall be submitted to the department and approved by the department prior to implementation.

(B) In accordance with Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code, the commission shall establish reasonable criteria for, and require the licensure of, any person that directly or indirectly manufactures, distributes, supplies, vends, leases, or otherwise provides card-minding devices or other supplies, equipment, or services related to card-minding devices designed for use in the playing of bingo games by any nonprofit organization.

(C) A person or entity that supplies or services any card-minding device shall meet all licensing requirements established by the commission in regulations.

(4) The costs of any testing, certification, license, or determination required by this subdivision shall be borne by the person or entity seeking it.

(5) On and after January 1, 2010, the Department of Justice may inspect all card-minding devices at any time without notice, and may immediately prohibit the use of any device that does not comply with the requirements established by the department in regulations. The Department of Justice may at any time, without notice, impound any device the use of which has been prohibited by the commission.

(6) The Department of Justice shall issue regulations to implement the requirements of this subdivision, and the California Gambling Control Commission may issue regulations regarding the means by which the operator of a bingo game, as required by applicable law, may offer assistance to a player with disabilities in order to enable that player to participate in a bingo game, provided that the means of providing that assistance shall not be through any electronic, electromechanical, or other device or equipment that accepts the insertion of any coin, currency, token, credit card, or other means of transmitting value, and does not constitute or is not a part of a system that constitutes a video lottery terminal, slot machine, or device prohibited by Chapter 10 (commencing with Section 330).

(7) The following definitions apply for purposes of this subdivision:

(A) "Commission" means the California Gambling Control Commission.

(B) "Department" means the Department of Justice.

(C) "Person" includes a natural person, corporation, limited liability company, partnership, trust, joint venture, association, or any other business organization.

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ATTACHMENT "F"



CITY OF PLEASANT HILL POLICE DEPARTMENT



MEMORANDUM

Date: October 3, 2012
To: Troy Fujimoto, Senior Planner
From: Lieutenant Dan Connelly
Subject: Blue Devils Bingo

Bingo Parlors operated outside of religious organizations and senior citizen groups have historically caused issues for the police department by attracting some people who have engaged in criminal activity. The proposed Blue Devils Bingo Arcade would merely replace the two previous bingo parlors that were in place at the same address for many years, the Bingo Arcade and the I-Zone. The I-Zone operated with a slightly different bingo model but it was essentially the same concept. Both businesses utilize bingo machines or on-line bingo to operate. There has been controversy over the way these games have been played and their legality has been questioned. The law recently changed and now requires a "tangible card" and that the only electronic device that may be used is a "card minding device".

From January 1, 2005, to June 14, 2012, the Bingo Arcade and the I-Zone had a total of 306 events reported at the address. The majority were related to disturbances, narcotic violations, suspicious persons, and warrant arrests.

The Blue Devils Bingo (BDB) has operated in Concord for many years, dating back to the 1990's. Concord PD has experienced similar issues with patrons of the BDB, drunks, assaults, thefts, etc., but not to the extent that PHPD has with the Bingo Arcade and the Izone. One possible explanation is that the BDB in Concord is located in an industrial park in the far north end of Concord and away from the downtown businesses and shops. Since April 15, 2012 the Concord PD generated 11 events at the BDB; one petty theft, a misdemeanor assault, a felony assault, a hit and run collision, and five officer-initiated contacts resulting in two arrests.

The BDB also supports the Concord High School band, the Contra Costa Food Bank, and the Walnut Creek Aquanauts. Each charity is allotted one or two sessions per week for charity bingo. Each Charity is provided with \$500 for the session and all the tips from winning patrons. Officer Biama spoke with the Contra Costa Food Bank and confirmed that they receive a guaranteed \$500.00 per week from the BDB. In the last few months they have received over \$2000 each month from BDB.

Despite the charitable benefits for community organizations derived from BDB operations, police staff does not favor granting a use permit to the BDB for a bingo arcade. This position is based upon the history of problematic bingo parlors at that same location, albeit with different operators than the BDB.

If the use permit is granted, police staff recommends the following conditions be implemented:

- A video surveillance system, including the interior of the premise, with retention of stored images for a minimum of 30 days.
- On site security officer (s). Note: If this condition is implemented it could be written into the terms that this requirement is subject to review after a specified period of time, e.g., 90 days.

ATTACHMENT "G"

NEWS - FEATURE

February 02, 2011

Login / Create Account

A New Place to Gamble?

Some so-called "Internet cafes" allow you play computer games of chance and win cash. Are they legal?

By Anna McCarthy

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Strip away the packaging of your average slot machine — the flashy lights, the alluring ring-a-ding-dinging— and you've basically got a computer game that spits out money when you win. In the Bay Area, a few enterprising entrepreneurs, including reputed bingo mogul **Robert "Bob" Casteel**, have figured out a way to exploit the similarities between computers and slots by capitalizing on a gray area in California law. They've opened "Internet cafes" that offer slot-like games on computers that pay out cash.

Sound sketchy? The City of Oakland thought so, too. Two of these local ventures, one operated by Casteel at **Foothill Square** and another at **Durant Square**, recently fell under serious scrutiny by city officials. They sent a cease and desist letter last fall to Casteel and Durant Square operator, Ray Abels, stating that the storefronts were operating Internet bingo, which is not allowed in the City of Oakland. The **Oakland City Attorney's Office** then threatened to shut down the businesses.

Although both Casteel and Abels insisted on the legality of their ventures, they voluntarily closed their cafes in mid-October while the city figured out whether the businesses were legit or just a cover for illegal gambling.

During their closure, I visited another one of these Internet cafes — the **I-Zone** — in a strip mall next to a few restaurants near **Diablo Valley College** in Pleasant Hill. The windows of the I-Zone were shaded. About fifteen patrons were inside, sitting among rows of roughly thirty computer screens. I saw one person using the Internet to browse Facebook. The rest were playing flashy, colorful games, some of which made hushed chiming sounds as they played.

I paid the woman at the front desk \$5 for about twenty minutes of "Internet time." She also said I would get "100 chances" to win at a computer sweepstakes game. She said I had the option of sitting at an "Internet exclusive" computer, but I told her I wanted to play the games. Then she sat me at a computer screen and explained that the Internet time would not run while I was playing my chances.

A colorful stack of balls bounced across the screen, and I clicked the "Play" button with my mouse until I had increased my original \$5 investment to \$7.40. A cautious gambler, I decided to quit while I was ahead. There was a button on the corner of the screen that took me back to a Google search prompt when I was ready to use my Internet time. However, the computer I was on didn't really seem set up for Internet use. The keyboard didn't work. So I collected my winnings, and went on my way.

The manager of the I-Zone refused to divulge any names associated with the business or owner, and said that the owner would not comment on the controversy surrounding the sweepstakes cafes in Oakland or the legality of the operations at the I-Zone.

But **James Mecham**, a consultant who works for SweepsCoach, a company that helps people all over the country open "sweepstakes gaming cafes," insists that if the owners are running a tight ship, the ventures could very well be legal. A sweepstakes game, Mecham explained, is lawful where slots aren't

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because, technically speaking, the game is designed to encourage people to buy a product, and not directly buy "chances" like in other forms of gambling. For instance, burger lovers at McDonald's are automatically entered in their "Monopoly" game for the chance to win a bunch of money every time they purchase a burger. Sweepstakes cafes offer the same deal, Mecham argued. "It's kind of like the McDonald's Monopoly game on steroids," he said.

Still sound sketchy? Legally speaking, there are three elements of gambling: prizes, chance, and consideration. The first two are self-explanatory. The third means that the customer paid directly to enter the game. By charging customers for Internet time, or in some cases for long-distance phone time, instead of directly for entrance into a game, a sweepstakes cafe, Mecham argued, removes the third element of gambling — consideration. "Simply put, the sweepstakes machines are our Monopoly game and the Internet or phone time is our cheeseburger," reads the SweepsCoach web site.

Of course, few people buy 1,000 burgers at McDonald's then throw out the burgers to up their chances at winning the Monopoly game. In order for the sweepstakes cafes to remain legal, selling the featured product — Internet time — has to remain the central purpose of the business. **Patricia Simmons**, who owns T's, an Internet cafe in Antioch, said in a phone interview that the games are merely a promotional tool for her Internet business. "Everyone is up in arms about something they don't understand," she said.

Mecham, who is based in Sacramento, said that his SweepsCoach business is booming all over the country — except in California. That's because gambling laws here tend to be more rigid than elsewhere, he said. But that doesn't mean they're airtight.

Depending on how far California sweepstakes cafe operators are willing to go and how much money the vendors providing the games are willing to spend, an operator that chooses to fight the legal battle could very well win, Mecham said. And a higher court decision in favor of the cafes would set a precedent for the whole state. It hasn't been done yet in California because no one has wanted to take such a potentially pricey risk, Mecham said. "They don't want to be the pioneer in charge, taking the arrows," he said.

But local critics contend that Casteel and Abels, the Oakland Internet cafe operators, were using the money they made from computer sweepstakes games to supplement their bingo halls. The two are also the bingo permit holders at Foothill and Durant squares charitable bingo halls, according to Oakland Assistant City Administrator **Arturo Sanchez**. In both cases, the cafes were located adjacent to the respective bingo halls.

Casteel also appears to own an Internet café in Vallejo around the corner from his bingo hall in that city, **777 Bingo**. According to a Vallejo city official, the business license for the Vallejo Internet cafe, **Lucky Business Services**, is listed under the name **Surety Administrative Service**. And the phone number given for that business belongs to Casteel.

Critics claim that the Internet cafes also give bingo operators like Casteel a competitive advantage over local charities that are trying to raise funds through bingo games. They allege that Casteel can keep his bingo hall "buy-in" charges low because of the extra cash flowing from his nearby cafe. Neither Casteel nor Abels responded to calls for comment.

At an Oakland City Council meeting in October, **Richard Poe**, a Richmond bingo hall landlord who said he was leasing his space to charities at no cost, said that given the prices being offered by the two Oakland halls, there's no way they could be making a profit, let alone stay afloat. "We'd like to see these shut down," Poe said. "What we see going on really is not what they intended in 1976 for charitable bingo."

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Of course, in 1976, when state voters decided to legalize bingo for charitable fund-raising purposes, there was no such thing as electronic bingo. There was just the old paper game. Both Foothill and Durant bingo halls featured electronic bingo until January 2009, when a new California law banned the machines from all charitable bingo halls in the state. Oakland and other Bay Area municipalities adopted the new state rules into their bingo ordinances.

Nancy Marcus, an assistant to the Oakland city administrator, said the city told the two Internet cafe operators to shutter their doors and move out under direction of the California Attorney General's Office. If Casteel and Abels refused, then they might have faced state charges.

In June 2009, the attorney general's office announced it had shut down "illegal gaming operations" in Stockton and San Diego after raids of a number of "Internet cafes," operating video poker, keno, and slots. "The agents purchased a card that allowed them 'Internet time' on the cafe's computers. If they won, an on-site employee paid them in cash," read the press release.

As of January 23, a visit to the former Foothill Square Internet cafe revealed that Casteel had decided to heed the city's warning and move out. However, the Durant Square Internet cafe was still open, advertising itself as the "Bingo Zone." Marcus said she wasn't aware that the cafe was still open and games still were being offered.

Although it's unclear whether Abels, the Durant Internet cafe owner, will fight if the city cracks down again. If it does, he may have a legal case to stay open. Mecham argued that as long as sweepstakes cafe operators stick to a business plan that features the product instead of the gaming, an expert will find that "although it looks like a duck and quacks like a duck, it's not necessarily a duck."

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« The Bingo Kingpin

What's Left of BRT? »

Related Stories

The Bingo Kingpin

When Berkeley concluded that its only major bingo hall was a scam, it apparently didn't realize who was pocketing the proceeds.

by Anna McCarthy

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ATTACHMENT "C"

August 7, 2014

City Of Antioch

City Council

Attn: Mindy Gentry, Tony Tiscareno and Mary Rocha

Re: Moratorium on Bingo Halls in Antioch

My name is Francine McMahon and I am part of the East County Hot Shots. We are a non-profit organization Founded in 2007, located in Antioch, Oakley, Brentwood and Pittsburg. We support a fast pitch traveling softball teams, we focus on keeping the kids in sports and off the streets. We have an indoor practice facility in Antioch where all the girls can go to practice and learn to play ball. Our bingo is located in Pittsburg and funds all proceeds to the kids. Due to economic times for the bingo, we moved to Pittsburg this year, where we had been operating at the VFW Hall in Antioch for several years. We are a small but, very successful bingo operation.

My purpose of the letter is to advise on the impact of additional bingo's opening in Antioch. If the City allows another organization into the city, we will likely be forced to close our doors. I believe we are also speaking on behalf of the VFW Woman's Aux Bingo, whom supports our Veterans and The Antioch Senior Center whom help the senior citizens in our community. We are all legitimate non-profit organizations doing the right things for our organizations. I reside in Antioch myself, we all know the crime and criminal activity is a daily ongoing problem.

Letting new bingo halls into the community will jeopardize the safety of our City and bring additional crime into the community, based on the new organization's history. We have been approached on several different occasions and phone calls to request we let It Takes a Village, operate in our existing building in Pittsburg, on the days we did not do bingo and share costs. After additional research from Bingo Managers and Supply Distributors, we declined, due to their reputation and credibility. The local bingo supply distributors will not do business with them either.

I did some personal research:

It Takes a Village Development Center – previously located in Oakland and Richmond, if we let them in, it will draw all the bad apples from Oakland and Richmond into our city. They have advised they will have the cheapest bingo in town and run the smaller bingo's out. The organization has a bad reputation in Oakland and have been run out, they are not currently operating. I cannot confirm this with the City Of Oakland. They do not have a current 501-C-3 charity organization to run a charity bingo, based on the Secretary of State and has been previously suspended. They are not currently registered with the Secretary of State nor the IRS. No fictitious name has been filed in Contra Costa County, so I'm not sure how they plan to operate.

Patriotic Hearts -- This is Patricia Cooper who also goes by Patricia Simmons with the internet café's. She was the President of Love 2 Danz Bingo, she was removed from the board for suspicious activity and left the organization flat broke and in debt. The organization Love 2 Danz was closed by the State of California for non-filling of taxes and revoked there entity and the doors were closed. She then moved on to the internet cafes, in which she kept moving her locations around Pittsburg. The Pittsburg police ended up shutting her down. She then landed in Antioch were it was very difficult to shut down her gaming operation. My understanding is she was facing charges for illegal gaming and was placed on probation instead of jail time, and suppose to have no contact with gaming. She is now trying to open another bingo under the name of Patriotic Hearts, I cannot find any current information on them. There are no current 501C-3 charity nor are they registered with the Secretary of State or the IRS, there is no fictitious name filed with the county. She is clearly opening another internet café. I know her business tactics, she is not a nice person.

I did hear there are new gaming machines coming out soon and they will be just like the internet sweepstakes machines, just formatted differently, same concept. I also was told that these 2 applicants will join together if one location is approved, but this is here say. This is likely her motivation to open a new bingo as a cover up for the internet operations.

If there is a public hearing on this matter please let us know, so all interested parties can attend. I hope that you reconsider allowing any other bingo operations into Antioch. This will impact our local organizations greatly and we will no longer be able to do what we do so well. Should you have any questions or concerns, please feel free to contact me directly.

Sincerely,



Francine McMahon


East County Hot Shots – Bingo Operations Coordinator

Francinemcmahon53@aol.com

925-726-6211

02

**STAFF REPORT TO THE PLANNING COMMISSION
FOR CONSIDERATION AT THE MEETING OF FEBRUARY 4, 2015**

Prepared by: Tina Wehrmeister, Community Development Director 
Date: January 27, 2015
Subject: Ordinance Establishing Zoning Regulations for Bingo Operations

RECOMMENDATION

It is recommended that the Planning Commission approve the attached resolution recommending that the City Council adopt the ordinance (Exhibit 1 to the proposed resolution that is Attachment A) establishing zoning regulations for Bingo Operations within the City of Antioch.

BACKGROUND

On July 22, 2014, the City Council adopted an urgency ordinance establishing a temporary moratorium on the issuance of permits, licenses, or approvals for construction, establishment or operation of new bingo halls or bingo operations, or the expansion of current bingo operations. The City Council extended the moratorium on August 26, 2014 (Attachment B). The staff report for the August 26, 2014 City Council meeting is attached (Attachment C), which also includes the staff report and attachments for the July 22, 2014 City Council meeting.

The staff reports and ordinances provide more details regarding the issues that led to the moratorium and need to establish zoning regulations to address public safety, health and welfare issues raised by bingo operations. Although small bingo games have occurred on a periodic basis for many years, these games were clearly of a small-scale, ancillary to other uses such as churches or the Veterans' Hall, and not generating complaints. However, the City began receiving applications for the establishment of sole use, possibly 24/7 bingo hall operations that raised more of the specter of large-scale gambling operations not unlike those recently addressed by the City with computer gaming at so-called "internet café's". These proposed bingo uses may not be complying with the "letter" or even the "intent" of State Penal Code provisions allowing only nonprofits to operate bingo games with the proceeds only being used for charitable purposes. Therefore, it became clear that the City's existing ordinance regarding regulations on bingo games needed to be updated to track the California Penal Code restrictions on bingo operations and to address these larger, sole-use, possibly 24/7 bingo hall operations.

Accordingly, staff is proposing two ordinances to address bingo operations: 1) a zoning ordinance before the Planning Commission that focuses on the location of bingo games

and the requirement that the use be ancillary to a nonprofit use; and 2) a “police power” ordinance that will be presented to the City Council and focus on hours of operation, nonprofit nature of the operator, amount of prizes, minors, etc., along with the proposed zoning ordinance.

PROPOSED ZONING ORDINANCE

The challenge with drafting a zoning ordinance for bingo operations is the desire not to penalize the small-scale, clearly ancillary bingo games that have been occurring at churches (i.e. religious assemblies), schools, the senior center and Veterans’ Halls without complaint as successful fundraising endeavors for legitimate nonprofits. This is true even when some religious assemblies and schools are located within residential neighborhoods. Requiring those uses to now obtain a use permit is burdensome for those nonprofits, and for City staff with its currently limited resources.

Thus, the proposed ordinance (Exhibit 1 to the proposed resolution that is Attachment A):

- generally allows bingo games in non-residential zoning districts, but only if the use is 1) located ancillary to a validly located nonprofit; 2) on property that the nonprofit owns or leases; and 3) the use complies with State laws, the Antioch Municipal Code, and the Building Code; and
- prohibits bingo games in residential zoning districts unless the use is: 1) located ancillary to validly located nonprofit religious assemblies or schools that are allowed in certain locations in a residential district pursuant to Antioch Municipal Code section 9-5.3832; 2) on property that the religious assembly or school owns or leases; and 3) the use complies with State laws, the Antioch Municipal Code, and the Building Code.

ATTACHMENTS

- A. Proposed Resolution with Proposed Zoning Ordinance attached as Exhibit 1
- B. Ordinance No. 2093-C-S adopted on August 26, 2014 extending an interim urgency zoning ordinance regarding bingo halls or operations
- C. Staff report for the City Council meeting on August 26, 2014, which includes the staff report for the City Council meeting on July 22, 2014

ATTACHMENT "A"

RESOLUTION NO. 2015-**

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ANTIOCH RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE ESTABLISHING ZONING REGULATIONS FOR BINGO OPERATIONS

WHEREAS, the Planning Commission of the City of Antioch did receive an application from the **City of Antioch** requesting approval of an amendment to the Zoning Ordinance of the Antioch Municipal Code to establish regulations for Bingo Halls and Operations (Z-15-01) following the City Council's adoption of an interim urgency zoning ordinance prohibiting the issuance of permits, licenses or approvals for construction, establishment or operation of any new bingo halls or bingo operations, or the expansion of current bingo operations, which was extended by the City Council on August 26, 2014 pursuant to Ordinance No. 2093-C-S; and,

WHEREAS, pursuant to CEQA Statutes Section 15061(b)(3), the proposed amendments to the Antioch Municipal Code are exempt from CEQA because it can be seen with certainty to have no possibility of a significant effect on the environment; and,

WHEREAS, the Planning Commission duly gave notice of public hearing as required by law; and,

WHEREAS, on February 4, 2015, the Planning Commission duly held a public hearing on the matter, and received and considered evidence, both oral and documentary.

NOW, THEREFORE BE IT RESOLVED that the Planning Commission, after reviewing the staff report and considering testimony offered, does hereby recommend that the City Council **ADOPT** the attached ordinance (Exhibit 1) establishing zoning regulations for bingo operations (Z-15-01).

* * * * *

I HEREBY CERTIFY the foregoing resolution was duly adopted by the Planning Commission of the City of Antioch, County of Contra Costa, State of California, at a regular meeting of said Planning Commission held on February 4, 2015, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Tina Wehrmeister, Secretary to the
Planning Commission

EXHIBIT 1

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH ESTABLISHING ZONING REGULATIONS FOR BINGO OPERATIONS

SECTION 1. Findings. The Antioch City Council hereby finds, determines and declares as follows:

A. The City of Antioch holds the right to make and enforce all laws and regulations not in conflict with general laws, and the City holds all rights and powers established by state law.

B. On July 22, 2014, pursuant to Ordinance No. 2091-C-S, the City Council adopted an interim urgency zoning ordinance prohibiting the issuance of permits, licenses or approvals for construction, establishment or operation of any new bingo halls or bingo operations, or the expansion of current bingo operations, which was extended by the City Council on August 26, 2014 pursuant to Ordinance No. 2093-C-S, pursuant to findings regarding a current and immediate threat to the public health, safety and welfare from the effects and impacts of bingo games and particularly proposed stand-alone, continually operating bingo halls that were not proposed to be ancillary to existing religious assembly or other nonprofit uses that could lead to an increase in crime (including robbery, illegal drug use and sales, burglary, assaults, loan sharking and prostitution); increase in juvenile truancy; decreased parking availability due to the extended time that patrons of these uses stay at the location; and other similar effects on property values and the quality of life in Antioch. The findings in Ordinance No. 2091-C-S and Ordinance No. 2093-C-S are incorporated into this ordinance.

C. The Planning Commission conducted a duly noticed public hearing on February 4, 2015 at which time a resolution was approved to initiate and recommend to the City Council that this ordinance be adopted. The City Council held a duly noticed public hearing on February 10, 2015, at which all interested persons were allowed to address the Council regarding adoption of this ordinance.

D. The City Council finds that the public necessity requires the proposed zoning ordinance amendments to allow bingo games only in non-residential zones and only in residential zones at religious assemblies and schools pursuant to Antioch Municipal Code section 9-5.3844.

E. This proposed ordinance is not detrimental to properties within Antioch and in conformance with the Antioch General Plan.

SECTION 2. Section 9-5.3844 is added to the Antioch Municipal Code:

§ 9-5.3844 BINGO OPERATIONS

A. Bingo games may generally be conducted in any non-residential zone if the requirements of subsection (C) below are met.

B. Bingo games may not be conducted in a residential zone in the city, except in religious assemblies and schools within residentially zoned districts under the authority of section 9-5.3832 of this code and if the requirements in subsection (C) below are met.

C. Bingo games or operations must meet the following criteria to be allowed:

- (1) the bingo use is ancillary to a validly-existing nonprofit religious assembly or other nonprofit organization;
- (2) is located on property that the nonprofit religious assembly or nonprofit organization owns or leases, or on property whose use is donated to the nonprofit organization and the property is used by the organization for an office or for the performance of the purposes for which the organization is organized and the nonprofit use is otherwise in conformance with this zoning code;
- (3) the building in which the bingo games will be conducted is in full compliance with the state building code, as set forth in section 8-1.01 of this code; and
- (4) the bingo operations conform with state law and Chapter 15 of Title 5 of the Antioch Municipal Code, as they may be amended.

SECTION 3. CEQA.

This Ordinance is subject to the CEQA exemption contained in CEQA Guideline section 15061 (b) (3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

SECTION 4. Publication; Effective Date.

This Ordinance shall take effect and be enforced thirty (30) days from and after the date of its adoption by the City Council at a second reading and shall be posted and published in accordance with the California Government Code.

SECTION 5. Severability.

Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

* * * * *

I HEREBY CERTIFY that the foregoing ordinance was introduced at a regular meeting of the City Council of the City of Antioch held on the ___ day of ___ and passed and introduced at a regular meeting thereof, held on the ___ day of _____, by the following vote:

AYES:

NOES:

ABSENT:

Wade Harper, Mayor of the City of Antioch

ATTEST:

Arne Simonsen, City Clerk of the City of Antioch



STAFF REPORT TO THE CITY COUNCIL

DATE: February 10, 2015

TO: Honorable Mayor and Members of the City Council

SUBMITTED BY: Tina Wehrmeister, Community Development Director *TW*

SUBJECT: Planning Commission Appointment

RECOMMENDED ACTION

It is recommended that the City Council receive and file the attached applications and the Mayor nominate and Council appoint one member to the Planning Commission.

STRATEGIC PURPOSE

Long Term Goal L: City Administration: Provide exemplary City administration.

Strategy L-7: Coordinate City Boards and Commissions administrative requirements.

FISCAL IMPACT

There is no fiscal impact to the City as all positions are voluntary.

DISCUSSION

The Planning Commission has one partial term vacancy with an expiration date of October 2017. Five applications were received during the recruitment period ending January 16, 2015. Four applicants were interviewed by Mayor Harper, Krystal Hinojosa, Planning Commission Chair and Acting Senior Planner Alexis Morris. One applicant was scheduled for an interview but did not appear.

The applicants are as follows:

Kenneth Clark
Jonathan Hernandez
Al Mason
Isaac Negrin
Martha Parsons

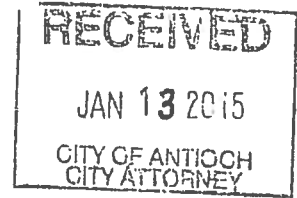
There is currently an open recruitment for another Planning Commission position recently vacated. Under the Maddy Act, applicants listed above who are not selected

must reapply for the position currently being recruited if they remain interested in serving on the Commission. All interested residents are encouraged to apply.

ATTACHMENTS

A. Applications

ATTACHMENT "A"



APPLICATION DEADLINE: 5:00 p.m. Friday, January 16, 2015

APPLICATION FOR COMMUNITY SERVICE

PLANNING COMMISSION - Commissioner (one partial term)

Print Your Name Kenneth S Clark

Address _____ City Antioch

ZIP Code 94509 Phone (H) _____ (W) _____ (C) _____

E-mail address _____

Employer Retired

Address _____ City _____

Occupation _____

Years lived in the City of Antioch 43

List the three (3) ^{main} reasons for your interest in this appointment:

1. I feel I owe this City a debt.
2. The best way for me to repay the debt is through volunteering.
3. The City needs knowledgeable people.

Have you attended any meeting of this commission? Yes

Have you had any previous appointments to this or other city commissions or boards? (If yes, please explain) No

What skills/knowledge do you have that would be helpful in serving on the Planning Commission? Over 40 years work in civil engineering
All my work experience is in public agencies. Most of my work has been with people in a somewhat adversarial climate.

Please indicate any further information or comments you wish to make that would be helpful in reviewing your application.

Can you attend meetings at the designated days and time? Yes

****Please attach your resume (REQUIRED TO BE CONSIDERED FOR APPOINTMENT).**

PLEASE NOTE THIS COMPLETED APPLICATION IS AVAILABLE FOR PUBLIC REVIEW.

The top three/four candidates will undergo a background check by the Antioch Police Department prior to appointment and commission members are required to file a "assuming office" and annual FPPC Form 700 (Statement of Economic Interests) with the City Clerk.

DELIVER OR MAIL TO: Antioch City Clerk
200 "H" Street
P.O. Box 5007
Antioch, CA 94531-5007



Signature

1-13-15
Date

Kenneth Clark

OBJECTIVE

Planning Commissioner for the City of Antioch

SUMMARY

After working for various public agencies for over 40 years I have retired. After extensive travel for several years, it is now time for me to give back to my community by volunteering my time. Currently I am a Block Captain of our neighbor watch group. We have adopted Marchetti Park to clean and look over. I attend Crime Prevention Commission and City Council Meetings on a regular basis. As a resident of the City of Antioch for over 43 years I have seen the city's population grow from around 20,000 to over 100,000. The City has changed, and not always for the better. Planning with a purpose may be the answer. I have looked at hundreds of plans and specifications. I have also prepared plans for various projects. It seems the City could take advantage of my experience and talents in assisting in making Antioch a thriving place to live again.

EXPERIENCE

Central Contra Costa Sanitary District, Martinez, California

Construction Inspector and Contract Administrator, 7/1980 - 8/2005

Responsible for observing that Contractors constructed projects in accordance with the plans and specifications in a timely manner. Reviewed requests for progress payments. Reviewed requests for change orders. Negotiated change order price increases and decreases.

City of Antioch, Antioch, California

Public Works Inspector, 11/1971 - 7/1980

Inspected work in the public right of way for compliance with City standard plans and specifications. Prepared plans and specifications for public works projects. Prepared daily reports of work progress on various projects.

Department of Water Resources, Quincy, Oroville, Portola, Sacramento, and San Bernardino, California

Engineering Aide and Technician, 3/1963 - 11/1971

Completed various civil engineering tasks, including: land surveying, construction surveying, concrete and soils laboratory testing, construction inspecting, and dispatching inspectors nationwide.

EDUCATION

Haward State University, Hayward, California

BA, Business Administration, 1986



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CITY OF ANTIOCH
CITY CLERK

APPLICATION DEADLINE: 5:00 p.m. Friday, January 16, 2015

APPLICATION FOR COMMUNITY SERVICE

PLANNING COMMISSION - Commissioner (one partial term)

Print Your Name Jonathan M. Hernandez

Address _____ City Antioch

ZIP Code 94509 Phone (H) _____ (W) N/A (C) _____

E-mail address _____

Employer Disabled

Address N/A City N/A

Occupation N/A

Years lived in the City of Antioch 8 years

List the three (3) main reasons for your interest in this appointment:

My Three main reasons for this appointment are 1) I love my city and want to give back. 2) I have fresh new ideas that can make substantial revenues for the city and would like to share them. 3) I was a Financial Advisor and know what it takes get this city back to where it used to be!
Have you attended any meeting of this commission? yes.

Have you had any previous appointments to this or other city commissions or boards? (If yes, please explain) NO.

What skills/knowledge do you have that would be helpful in serving on the Planning Commission? I was a Financial Planner and have been looking into obtaining a Real Estate License. I also took Legal Courses while in high school.

Please indicate any further information or comments you wish to make that would be helpful in reviewing your application.

I would love the opportunity to serve my city and its citizens by representing their wishes as it pertains to land use, zoning and General Plan issues. Any consideration given to be appointed to the Planning Commission would be greatly appreciated. Thank you for your time and I look forward to serving the great citizens of Antioch with you all.

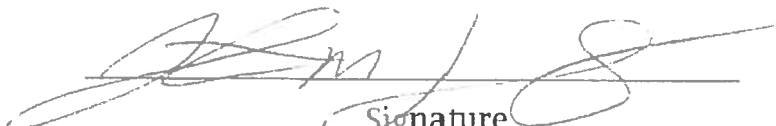
Can you attend meetings at the designated days and time? yes

****Please attach your resume (REQUIRED TO BE CONSIDERED FOR APPOINTMENT).**

PLEASE NOTE THIS COMPLETED APPLICATION IS AVAILABLE FOR PUBLIC REVIEW.

The top three/four candidates will undergo a background check by the Antioch Police Department prior to appointment and commission members are required to file a "assuming office" and annual FPPC Form 700 (Statement of Economic Interests) with the City Clerk.

DELIVER OR MAIL TO: Antioch City Clerk
200 "H" Street
P.O. Box 5007
Antioch, CA 94531-5007


Signature

01/15/15
Date

Jonathan M. Hernandez

Objective: To obtain a full time position as a Bail Agent.

Skills & Qualifications:

Swedish	Myofascial Release	CPR & First Aid Certified
Western	Lymphatic Drainage	Bilingual: American Sign Language
Sports	Deep Tissue	1299 Certified
Prenatal	BATC Certified	DOI Bail License
Shiatsu	Guard Registration Card	DOI Life License
Spa	P.O.S.T Certified	

Education:

Certificate in Massage Therapy, Western Career College, Antioch, CA.
Sports Medicine/ General, Regional Occupational Program, Antioch, CA.
American Sign Language, Los Medanos College, Pittsburg, CA.
Certificate in Phlebotomy, Phlebotomy Plus of Walnut Creek, Walnut Creek, CA.
High School Diploma, Antioch High School, Antioch, CA.
Certificate in Bail Pre - Licensing, Bailspeak, Tracy, CA

Employment History:

09/11 – 12/11 **Bail Agent, Bad Boys Bail Bonds**
✓ receive leads
✓ negotiate, write, and post bail all across Northern California
✓ collect and manage money
✓ investigate and locate defendants
10/07 – 11/09 **Security Guard, Inter-Con Security Services**
10/06 – 05/07 **Security Guard, Allied Barton Security Services**
06/05 – 02/06 **Security Guard, Healthcare Security Services**
✓ Observe and report findings
✓ Respond to emergency calls
✓ Maintain safety and security of the oil refinery and Patients & Staff.

Volunteer Experience:

R.O.P Sports Medicine
✓ Assessed, and treated injuries
✓ Determined whether the patient needed go the hospital for further treatment
✓ Participated in the Contra Costa County Sheriff's Department Cadet Program.



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CITY OF ANTIOCH
CITY CLERK

APPLICATION DEADLINE: 5:00 p.m. Friday, January 16, 2015

APPLICATION FOR COMMUNITY SERVICE

PLANNING COMMISSION - Commissioner (one partial term)

Print Your Name AL MASON

Address _____ City ANTIOCH

ZIP Code 94509 Phone (H) _____ (W) N/A (C) _____

E-mail address _____

Employer RETIRED

Address _____ City _____

Occupation DIRECTOR OF BUSINESS DEVELOPMENT

Years lived in the City of Antioch TEN, PRIOR LIVED 15 YRS IN B'WOOD

List the three (3) ~~most~~ reasons for your interest in this appointment:

1. WANT ANTIOCH TO THRIVE
2. BELIEVE COMMUNITY SERVICE IS BOTH OBLIGATION & PRIVILEGE
3. FEEL I BRING VALUABLE TRAITS ~~IF~~ eg. EVEN-HANDEDNESS, INTEGRITY, LISTENING AND REASONING SKILLS.

Have you attended any meeting of this commission? NO

Have you had any previous appointments to this or other city commissions or boards? (If yes, please explain) NO

What skills/knowledge do you have that would be helpful in serving on the Planning Commission?

1. CONSENSUS BUILDER
2. WILLINGNESS TO HEAR OPPOSING VIEWS & CONSIDER THEM.
3. INTERESTED IN RESULTS, ~~WILLING TO LISTEN~~
4. VERY GOOD LISTENING SKILLS
5. I HAVE BEEN A MANAGER FOR MANY YEARS

Please indicate any further information or comments you wish to make that would be helpful in reviewing your application.

I'm RESPECTED by peers, neighbors & business associates AS A PERSON who is READY & willing to jump in AND get a job done AND is able to subordinate ego in FAVOR OF END RESULTS.

Can you attend meetings at the designated days and time? YES

****Please attach your resume (REQUIRED TO BE CONSIDERED FOR APPOINTMENT).**

PLEASE NOTE THIS COMPLETED APPLICATION IS AVAILABLE FOR PUBLIC REVIEW.

The top three/four candidates will undergo a background check by the Antioch Police Department prior to appointment and commission members are required to file a "assuming office" and annual FPPC Form 700 (Statement of Economic Interests) with the City Clerk.

DELIVER OR MAIL TO: Antioch City Clerk
200 "H" Street
P.O. Box 5007
Antioch, CA 94531-5007

Al Maso

Signature

1-15-2015

Date

AB

Al Mason

Work Experience

WORKFLOWONE - Director Business Development 2004 –2012

Top performer in business-to-business sales through strategic research and prospecting. I closed new business with Fortune 1000 companies for Business Process Outsourcing. Earned Trusted Advisor status with decision makers and their support staffs by closely listening and designing solutions to meet their business challenges. I interfaced with CFO's, Information Services, Collections and Customer Service department heads. My 2011 book of business was \$3.3M. I retired in September 2012.

REGULUS-- Vice President Sales 1995 –2004

Prospected, closed, and maintained multi-year, million dollar outsourcing contracts with companies including Kaiser Permanente, Bank of America Securities, California Casualty Insurance, Norcal Waste Systems, Viking Freight and Sacramento Municipal Utility District. Exceeded new business quota in 7 of 9 years, 4-times awarded President's Club, 5-times over \$1M in net new annually recurring business and sold over \$2M net new recurring business in my best year.

BOWATER COMMUNICATION PAPERS - District Sales Manager 1983 – 1995

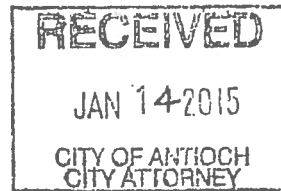
Motivated my sales team in Northern California to exceed quota.

Education

SOUTHERN ILLINOIS UNIVERSITY - BS in Business Administration (Marketing major)

Military

US ARMY, SPECIAL FORCES honorably discharged at rank of Sergeant



APPLICATION DEADLINE: 5:00 p.m. Friday, January 16, ~~2014~~ ²⁰¹⁵

APPLICATION FOR COMMUNITY SERVICE

PLANNING COMMISSION - Commissioner (one partial term)

Print Your Name ISAAC NEGRIN

Address _____ City ANTIOCH

ZIP Code 94509 Phone (H) _____ (W) _____ (C) _____

E-mail address _____

Employer Self-employed

Address 1113 W 10th St. City Antioch

Occupation _____

Years lived in the City of Antioch 21 years

List the three (3) main reasons for your interest in this appointment:

- * I would like to join the committee.
- * After 21 years of being part of the business industry in Antioch I would like to be part of the development issues within the city and make recommendations based on my knowledge and experiences in Antioch

Have you attended any meeting of this commission? _____

Have you had any previous appointments to this or other city commissions or boards? (If yes, please explain) No.

What skills/knowledge do you have that would be helpful in serving on the Planning Commission? I'm being part of this community for many years.

I held a business for 20 years dealing with government office, bank and more important serving the local community.

This allow me to know, get involved and understand the coulter of the city.

Currently I'm investing in some properties, but mainly managing them.

Please indicate any further information or comments you wish to make that would be helpful in reviewing your application.

SEE RESUME PLEASE

Can you attend meetings at the designated days and time? yes.

**Please attach your resume (REQUIRED TO BE CONSIDERED FOR APPOINTMENT).

PLEASE NOTE THIS COMPLETED APPLICATION IS AVAILABLE FOR PUBLIC REVIEW.

The top three/four candidates will undergo a background check by the Antioch Police Department prior to appointment and commission members are required to file a "assuming office" and annual FPPC Form 700 (Statement of Economic Interests) with the City Clerk.

DELIVER OR MAIL TO: Antioch City Clerk
200 "H" Street
P.O. Box 5007
Antioch, CA 94531-5007



Signature

1-14-15

Date

All

Isaac Negrin

Objective:

Obtain position in the Planning Commission Committee in Antioch.

Experience:

2010-current

Property Manager:

- Leasing.
- Maintaining the properties.
- Occupying the properties.
- Collecting.
- Generating reports.

1992 – Current

CEO- FRESH START Automobile Inc.

Owned and actively managed the car dealership.

Responsibilities:

- Acquiring cars in auctions, and general public.
- Registering at DMV.
- Approving loans.
- Marketing and Advertising
- Reconditioning, smog and details

Activities:

- I'm an active member of the local Democratic Party.
- Actively working in fundraising since 1999
- Co Fonder of Contra Costa Jewish Day School
- President of Jewish National Fund (JNF) Northern California from 2002-2004



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CITY OF ANTIOCH
CITY CLERK

APPLICATION DEADLINE: 5:00 p.m. Friday, January 16, 2015

APPLICATION FOR COMMUNITY SERVICE

PLANNING COMMISSION - Commissioner (one partial term)

NAME OF BOARD OR COMMISSION Planning Commission

PRINT YOUR NAME Martha Parsons

ADDRESS _____ CITY Antioch

ZIP CODE 94509 PHONE (H) _____ (W) _____

E-MAIL ADDRESS _____

EMPLOYER self

ADDRESS same CITY _____

OCCUPATION Small Business Owner, Consultant, Real Estate Broker

YEARS LIVE IN THE CITY OF ANTIOCH 68

LIST THE THREE (3) MAIN REASONS FOR YOUR INTEREST IN THIS APPOINTMENT:

Wanting to serve my City

Community Service to help make recommendations to the City Council on land use, zoning, and general plan issues coming before the commission to help improve our City

The belief that Antioch is at the brink of becoming a growth center for jobs and development as eBART and Route 239 to Tracy become a reality and wanting to assist in that process.

HAVE YOU ATTENDED ANY MEETINGS OF THIS BOARD/COMMISSION? Yes

HAVE YOU HAD ANY PREVIOUS CITY COMMUNITY SERVICE ON THIS BOARD/COMMISSION? (If yes, please explain) No

WHAT SKILLS/KNOWLEDGE DO YOU HAVE THAT WOULD BE HELPFUL IN SERVING ON THE BOARD/COMMISSION FOR WHICH YOU ARE APPLYING? Real Estate Broker for over

35 years, the 2 years on the City Council, 3 1/2 years on Economic Development Commission, 2 years on the Oversight Board for the Desolution of the Antioch Redevelopment Agency and worked with the City of Pittsburg, the Contra Costa Fire Dept and BART in the opening of the Morrison Knudsen Company to rebuild the BART cars in Pittsburg.

(Over)

A13

PLEASE INDICATE ANY FURTHER INFORMATION OR COMMENTS YOU WISH TO MAKE THAT WOULD BE HELPFUL IN REVIEWING YOUR APPLICATION.

PLEASE READ THE ATTACHED GENERAL INFORMATION REGARDING BOARDS AND COMMISSION SO YOU ARE AWARE OF THE DUTIES, TIME AND FREQUENCY OF MEETINGS.

CAN YOU ATTEND MEETINGS AT THE DESIGNATED TIME? Yes

PLEASE ATTACH YOUR RESUME (REQUIRED TO BE CONSIDERED FOR APPOINTMENT).

PLEASE NOTE THIS COMPLETED APPLICATION IS AVAILABLE FOR PUBLIC REVIEW.

THE TOP THREE/FOUR CANDIDATES WILL UNDERGO A BACKGROUND CHECK BY THE ANTIOCH POLICE DEPARTMENT PRIOR TO APPOINTMENT.

DELIVER OR MAIL TO: CITY CLERK'S OFFICE
P.O. BOX 5007
ANTIOCH, CA 94531-5007

Maisha E. Parsons

Signature

1-5-15

Date

A14



Martha Viera Parsons

CAREER OBJECTIVE Employment utilizing my many skills, which include office administration, strong contract, computer and organizational skills and vast experience in dealing with people that have enhanced my human relations talent.

QUALIFICATIONS Over 30 years in the business environment has prepared me for responsibilities in administration, supervision, database management, legal aspects, contracts, budgets and personnel actions. I am a loyal, conscientious and dedicated worker who aspires and does turn challenges into opportunities.

EXPERIENCE

Administrative

Heald College – Administrative Assistant to the Director, responsible for the supervision of computer labs and lab trainees, tutoring computer sciences, teaching word processing, and production of student schedules.

PRO Real Estate – Broker/Co-Owner, managing until its sale

Bayly, Martin & Fay – Accounting Consultant during reorganization

Praxair, Inc. – Office Administrator and Plant Manager Confidential Secretary

Morrison Knudsen Corporation – Disadvantaged Business Enterprise (DBE) Administrator

Office Administration

Current Parsons Business Solutions – Own, manage and operate small business supporting and professionally assisting other businesses, candidates, organizations and the general public in all aspects of a business office, fundraising, events planning, specializing in golf tournaments and receptions, organizing functions, correspondence, generating mailings lists, labels, flyers, including the Contra Costa College Foundation Scholarship Golf tournament for the past 14 years.

Past Tom Torlakson for Assembly/Tom Torlakson for Senate– Political Consultant involved in all phases of the successful 1996 & 1998 & 2008 Assembly campaigns and 2000 & 2004 senatorial campaign.

Senator Mark DeSaulnier– Political Consultant involved in all phases of the successful Supervisorial race in 2000 & 2004, his Assembly race 2006 and Senate race in 2008. For both contracts handled the campaign work from primary to general election including: strategy meetings; conducting opposition research; coordinating mass mailings using internet database of over 21,000 entries-producing labels, creating flyers, invitations, and supervising of campaign events; coordinating and supervising phone banking and precinct walking; signature gathering, arranging speaking opportunities for candidates; managing candidates correspondence; arranging internship for young college students to work on campaign in exchange for college credit, etc. Special Event Coordinator for successful fundraising events for both the candidates.

Past Morrison Knudsen Corporation – Administrative Specialist responsible for organizing the new facility in California including: facilitating building permits with the City of Pittsburg and Riverview Fire Department; working closely with contractors to coordinate construction timetables; purchasing and

administration of the facility telephone system; laying out and purchasing of all office furniture and equipment for a staff of 70 in three separate office areas. Managing a staff of 5 clerical employees and auditing and authorizing payroll for 48 hourly employees. Responsible for coordinating the telecommunication/video conferencing equipment functioning ties to three sites nationwide. Liaison between company and various DBE firms on site, producing monthly DBE progress reports, originating and generating of the monthly Customer Program Review Booklets for BART and CALTRANS Contracts. Position ended when MK lost the BART contract in Pittsburg.

Praxair, Inc. – Office Administrator and Confidential Secretary to the Plant Manager, responsible for computerized payroll for 78 hourly employees, human resource administration for a facility of 90, on-going department budget administration, facility million dollar plus overhead invoice auditing and union contract administration for a production force of 28, supervising an office staff of 5, responsible for vehicle fleet administration for a fleet of 40, logistics contract administration, customer billing, government and private business contract administration, i.e., Lawrence Livermore Labs, Sandia Labs, USS POSCO, Du Pont, etc. Position ended when all clerical duties was transferred to Tonawanda, NY.

PRO Real Estate, Inc. – Broker/Co-Owner, establishing and successfully managing the business until its sale. Responsibilities included advertising and overhead budgets, writing advertising, monitoring contract writing and listing agreements of independent contractor agents.

Community Relations

Currest Higgins Chapel/Oak View Memorial Park - Ambassador representing the business at Chambers of Commerce, Business Networking organizations and providing various special projects support.

Past Assemblyman Tom Torlakson – Field Representative in the East Contra Costa Area

- Establishing and maintaining effective working relationships with local community and civic leaders.
- Representing the Senator/Assemblyman at meetings and functions throughout the district/performing public speaking duties when required.
- Responding to public inquiries regarding the Assemblyman's views and positions on various issues and legislation.
- Developing superior knowledge of state government system and the legislative process to properly respond to constituent concerns and inquiries.
- Reviewing and researching constituent correspondence and developing written responses for signature.
- Providing a weekly report of district activities; preparing briefing packets for member; research subjects for speeches; correcting office computer problems, keeping abreast of district concerns; following assigned issue areas; tracking bills; researching bill ideas and special projects.

EDUCATION AND SPECIALIZED TRAINING

Heald College - Associate of Business Degree – Accounting/Data Processing – 3.95 GPA-Cost Accounting, Management Accounting, BASIC, RPG, Computerized Accounting

PC compatible computer proficiency - Microsoft Office Professional, (Word, Excel, Access, Power Point), KRONOS Computerized Payroll, WordPerfect, Print Shop Deluxe and various other computer software.

Telecommunications Administration Training – AUDEX Phone System
Real Estate Sales and Brokers Courses and Continuing Education courses -
Ethics, Appraisal, Tax, Economics, Legal Aspects, etc.
Human Resource/Personnel/Management Courses – Interpersonal
Communications, Appraising Non-Exempt Performance, Meeting
Management, Union Carbide Corporation Management Program,
Performance Excellence Process, Managing in Turbulent Times

PAST & CURRENT COMMUNITY INVOLVEMENT/RECOGNITION

Antioch Veteran's Day Parade Committee Member since 2011 Chair 2014
Antioch Centennial Celebration Member
Antioch Chamber of Commerce, Former Vice President and Current Ambassador
Former Ambassador of the Year
Chamber of Commerce Leadership for East County Program
Antioch City Councilmember 2008 – 2010
Antioch Economic Development Commission – 2011 - Present
Antioch Oversight Board To The Successor Agency To The Desolution of the
Antioch Development Agency – 2012 to Present
Antioch Human Resources Corporation Board of Directors, Former Secretary
Antioch Historical Society – 1985 - Present
Antioch Rotary Club Member and Board Member – 2013 - Present
Antioch Senior Citizens, Fun after 50
Antioch-Chichibu Sister City Organization
Antioch Woman's Club, Current Co-President 2014-2015
Former 1st Vice President 2012-13
CalNevHa District of Kiwanis Int'l, Div. 26 Distinguisher Lt. Governor 2001-02
Celebrate Antioch Foundation Member 2012 to present
Keep Antioch Beautiful Founder and Chair 2009-present
Kiwanis Club of the Delta-Antioch, Member 1998 - present
Kiwanis Club of the Delta-Antioch, President 2000-01
Kiwanis Club of the Delta-Antioch, Secretary 2007-10
Kiwanis Club of Brentwood Charter Member
Lake Alhambra Property Owners Association-1985 - present
Morrison Knudsen Corporation's United Way Campaign Coordinator
The United Way Honorary Mention Award 1995
Most Holy Rosary Catholic Church - Lifetime Member
Former Holy Rosary Harvest Faire Committee, Co-Chair Ticket Sales (13 years)
Former Holy Rosary School, Co-Chair-"Holy Hotcakes/Friar's French Toast"
Former Third grade CCD Teacher
Order Sons of Italy- C. Colombo Lodge 1315 – 1972 - Present
1999 75th Anniversary Celebration Chair
Praxair's East County Tree Planting Program Chairperson
Contra Costa County Supervisor Community Service Award 1993
The Industrial Association of Contra Costa County
Chairperson, Personnel Group, Special Recognition Award 1991
Veterans of Foreign Wars, Post 6435 Ladies Auxiliary


REFERENCES – Upon Request



STAFF REPORT TO THE CITY COUNCIL

DATE: Regular meeting of February 10, 2015

TO: Honorable Mayor and Members of the City Council

SUBMITTED BY: Steve Duran, City Manager 

SUBJECT: Contra Costa Transportation Authority
Citizens Advisory Committee Appointment

RECOMMENDED ACTION

It is recommended that the City Council receive and file the attached application and that the Mayor nominate and Council appoint one member to the Contra Costa Transportation Authority Citizens Advisory Committee to represent the City of Antioch.

STRATEGIC PURPOSE

The recommended action furthers **Strategy G-3:** Continue to focus on community enhancements, such as Downtown/Rivertown development, Hwy 4 expansion, e-BART Specific Plan implementation, and possible ferry service. In particular, this action furthers **G-3 Short Term Objective:** Continue to work with BART, CalTRANS, and the Water Emergency Transportation Authority (WETA).

FISCAL IMPACT

There is no fiscal impact to the City as all positions are voluntary.

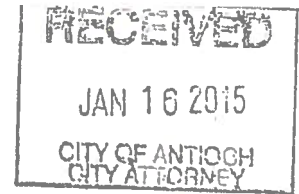
DISCUSSION

The Contra Costa Transportation Authority (CCTA) maintains a standing Citizens Advisory Committee (CAC) to provide citizen perspective, participation and involvement in the implementation of the CCTA Transportation Expenditure Plan and Growth Management Program. Antioch has one appointment to the CAC. More details are contained in the attached application (Attachment A).

This appointment is to replace Jeff Belle, who resigned after being elected to the County School Board. This is a partial-term appointment that will expire August 2017. We had one applicant, Millard Larkin II. The alternative to appointment would be to take no action and direct the City Clerk to seek additional applicants.

ATTACHMENT

A. Application



Citizens Advisory Committee Application

The Contra Costa Transportation Authority (CCTA) maintains a standing Citizens Advisory Committee (CAC) to provide citizen perspective, participation and involvement in the CCTA's \$3 billion voter-approved Transportation Expenditure Plan and Growth Management Program. The CAC is comprised of 23 members: 20 are appointed by each of the 20 local jurisdictions within Contra Costa (the cities, towns, and the County); three "at-large" members are nominated by community-based stakeholder organizations within Contra Costa, and subsequently appointed to the CAC by CCTA.

To become a member of the CAC, you must reside within the local jurisdiction making the appointment, and your Council or Board must take formal action to confirm your membership on the Committee. At-large members should be residents of Contra Costa.

Meetings are scheduled for the fourth Wednesday of the month at 6:30 p.m. in the CCTA's Walnut Creek offices at 2999 Oak Road, Suite 100. CAC members are appointed to serve for a four-year term without compensation. Members will, however, receive reimbursement for travel expenses to and from the CAC meetings.

For further information regarding transportation projects and programs Contra Costa. Please visit the CCTA website at www.ccta.net. To view the CAC Charter and Bylaws, or to download the Word® file for this application, go to <http://www.ccta.net/GEN/downloads.htm>.

This application is for: **Local Jurisdiction**

Name of Appointing Agency: City of Antioch

Name MILLARD LARKIN II

Address WIRBLER DR. Antioch 94509
Street City Zip Code

Phone _____

E-mail _____ Fax _____

How many years have you lived in Contra Costa County? 14

Are you registered to vote in Contra Costa County? Yes No

Education MASTER - COMPLIANCE ADMINISTRATION,

Briefly describe your interest in serving on the Citizens Advisory Committee, citing any relevant volunteer or work experience.

I have previously served on many boards, committees and the capacity of city commissioners in San Francisco Housing Authority
- Southeast Facilities Commission; president and vice president.

List and briefly describe any participation in volunteer, community or professional organizations which are relevant to your candidacy for the Citizens Advisory Committee.

I worked for 3 railroads in the past in the capacity of crew chief, yard clerk, and I worked for Southern Pacific Railroad, Santa Fe Railroad, and Elgin Joint and Eastern.

What is your particular interest in transportation?

An Antioch ~~area~~ city has started to stabilize our infrastructure which makes travel safer and support growth. I would like to see safer transportation and create gainful employment and training opportunities for residents. I like the idea of coordinating and exchanging ideas to improve overall growth and safety for the region.

I have sufficient time to devote to this responsibility and will attend the required meetings if appointed to the Citizens Advisory Committee.

Applicant's Signature

Michael Quinn @ Date 1/15/15

INSTRUCTIONS

APPLICANTS:

Submit your completed application directly to the Antioch City Clerk, 200 H Street, Antioch, CA 94509 **no later than 5 PM, Friday, January 16, 2015.**

For additional information about the CCTA Citizens Advisory Committee, please contact:

CAC Staff Liaison - Diane Bodon
Contra Costa County Transportation Authority
2999 Oak Road, Suite 100
Walnut Creek, CA 94597

d.bodon@ccta.net
Phone 925-256-4720



STAFF REPORT TO THE CITY COUNCIL

DATE: Regular Meeting of February 10, 2015

TO: Honorable Mayor and Members of the City Council

SUBMITTED BY: Ahmed Abu-Aly, Associate Engineer, Capital Improvements Division *AA*

APPROVED BY: Ron Bernal, Public Works Director/City Engineer *RB*

SUBJECT: Fishing Pier Pavilion, (P.W. 99-A5)

RECOMMENDED ACTION

It is recommended that the City Council authorize the Director of Finance to amend the 2014-2015 Capital Improvement Budget for the Fishing Pier Pavilion to \$108,000 and increase the contract with S.R.P. Company to \$96,766.93.

It is recommended that the City Council adopt the attached resolution accepting work, authorizing the Public Works Director/City Engineer to File a Notice of Completion and authorizing the Director of Finance to make a final payment of \$47,258.63 to S.R.P. Company, plus retention of \$4,838.35 to be paid 35 days after recordation of the Notice of Completion.

STRATEGIC PURPOSE

This item supports Strategy K-1 in the Strategic Plan by ensuring well maintained public facilities and continuing to comply with regulatory requirements of state and federal agencies.

FISCAL IMPACT

The final construction contract price for this project is \$96,766.93. The project is funded through a Measure WW grant and Park-in-Lieu funds. The final cost of the project is \$108,000, and will be funded as follows: \$66,000 from Measure WW and \$42,000 from Park-in-Lieu funds. Staff will be applying to East Bay Regional Park District for the City's remaining \$33,000 of Measure WW grant funding to be allocated to this project.

DISCUSSION

On June 24, 2014, the City Council awarded a contract to S.R.P. Company in the amount of \$86,000 to demolish the existing restroom and purchase and install a new shade structure and benches at the location of the existing restroom on the Fishing Pier.

The increase in the final construction cost was due to additional structural repair work to the fishing pier wood structure, which was necessary to support the new shade structure. SRP Company successfully completed all the work for this project on January 14, 2015.

ATTACHMENTS

- A: Resolution Accepting Work
- B: Notice of Completion

ATTACHMENT "A"

RESOLUTION NO. 2015/
RESOLUTION ACCEPTING WORK AND DIRECTING
THE PUBLIC WORKS DIRECTOR/CITY ENGINEER
TO FILE A NOTICE OF COMPLETION AND AUTHORIZING FINAL
PAYMENT TO S.R.P. COMPANY FOR THE FISHING PIER PAVILION
(P.W. 99-A5)**

WHEREAS, the Public Works Director/City Engineer, has certified the completion of all work provided to be done under and pursuant to the contract between the City of Antioch and S.R.P. Company and;

WHEREAS, it appears to the satisfaction of this City Council that said work under said contract has been fully completed and done as provided in said contract and the plans and specifications therein referred to;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Antioch, that:

1. The above-described work is hereby accepted.
2. The Public Works Director/City Engineer is directed to execute and file for record with the County Recorder, County of Contra Costa, a Notice of Completion thereof.
3. The Director of Finance is hereby directed to amend the 2014-2015 Capital Improvement Budget for the Fishing Pier Pavilion to \$108,000 (\$66,000 Measure WW and \$42,000 Park-in-Lieu) and increase the contract with S.R.P. Company to \$96,766.93.
4. The Director of Finance is hereby directed to pay the Contractor a final payment in the amount of \$47,258.63 plus retention of \$4,838.35 to be paid 35 days after recordation of the Notice of Completion.

* * * * *

I HEREBY CERTIFY that the foregoing resolution was passed and adopted by the City Council of the City of Antioch at a regular meeting thereof held on the 10th day of February, 2015 by the following vote:

AYES:

NOES:

ABSENT:

**ARNE SIMONSEN
CITY CLERK OF THE CITY OF ANTIOCH**

ATTACHMENT "B"

Recorded at the request
of and for the benefit
of the City of Antioch

When recorded, return
to City of Antioch
Capital Improvements Department
P.O. Box 5007
Antioch, CA 94531-5007

NOTICE OF COMPLETION

FOR

**FISHING PIER PAVILION
IN THE CITY OF ANTIOCH
(P.W. 99-A5)**

NOTICE IS HEREBY GIVEN that the work and improvements hereinafter described, the contract for which was entered into by and between the City of Antioch and S.R.P. Company was completed on January 14, 2015.

The surety for said project was Indemnity Company of California.

The subject project consisted of demolition of the restroom and replacement with a shade structure and benches located at West First Street and Waldie Plaza in Antioch, California.

**THE UNDERSIGNED STATES UNDER PENALTY OF
PERJURY THAT THE ABOVE IS TRUE AND CORRECT**

Date

RON BERNAL, P.E.
Public Works Director/City Engineer



STAFF REPORT TO THE CITY COUNCIL

DATE: Regular Meeting of February 10, 2015

TO: Honorable Mayor and Members of the City Council

SUBMITTED BY: Steve Duran, City Manager

SUBJECT: Updates to the City Council Agenda Template

RECOMMENDED ACTION

It is recommended that the City Council approve staff's recommended updates to the City Council Agenda template as contained in Attachment A to this report, or direct staff as to other changes to the City Council Agenda.

STRATEGIC PURPOSE

Staff's recommendations are designed to advance the City's vision and to improve community communications and trust in government. The City's vision statement in the Strategic Plan describes Antioch, among other attributes, as "a community that provides an opportunity to live, learn, work, worship, and play in a safe, stimulating and diverse community." Under Long Term Goal L, which is to provide exemplary City administration, Strategy L-1 states: Improve community communications and trust in City government..."

FISCAL IMPACT

The recommended action has no fiscal impact.

DISCUSSION

Staff is recommending four changes to the City Council Agenda template, which has been in use for a number of years. The first change is recommended in reaction to recent court rulings allowing prayer in public forums and a number of issues that other cities have dealt with as a result.

Recommended Change #1

A number of cities have gone down the road of an oral prayer to commence City Council meetings. This has led to much debate as to what kind of prayer, who offers the prayer, and whether or not the prayer can be sectarian (of a particular religious tradition or sect). To avoid creating divisions, arguments, and potential legal issues particularly under the California Constitution (which has broader separation of church and state provisions than the U.S. Constitution), staff is recommending a "moment for silent prayer or meditation" in order that all people can pray, meditate (or not) according to their own tradition or conscience. This supports Antioch's vision statement without being divisive. Staff recommends that a "**Moment of Silence for Prayer or**

Meditation” be added just before the Pledge of Allegiance. Alternatives include no prayer or meditation, which is status quo.

Recommended Change #2

Another change that staff is recommending is to clarify how Council Members place items on future City Council Agendas by putting the process in writing on the Agenda. Staff is recommending changing Council Communications as follows:

“COUNCIL COMMUNICATIONS AND FUTURE AGENDA ITEMS – Council Members report out various activities and any Council Member, with a motion, a second and three or more votes, may place an item for discussion and direction on a future Council Agenda.”

Most cities that staff has researched have a similar process. Staff received a copy of a League of California Cities City Clerk List Serve inquiry on this very question. Responses were received from twenty five (25) cities and special districts throughout the State. The most common response was that it takes a majority of the Council/Board members to request a future agenda item. In a few cases, some agencies require the consensus of only two (2) Council/Board members. A rare few provided for a single Council/Board member to place an item on a future agenda. A couple also provided for the Mayor to have full authority over whether or not an item was placed on the agenda.

Some cities, including Richmond and Pinole, allow any Council Member to place any item on any City Council Agenda. This can lead to agenda items that are out of the purview of the City Council, out of sequence with the budget preparation cycle, or lacking in staff research and analysis. It can also lead to resources being spent to prepare an item when there is not a majority of the Council that wants to discuss it – much less having an interest in taking action. This approach can also lead to extremely long and/or contentious City Council meetings.

Antioch staff’s recommendation is based on the desire to be efficient and effective with very thin resources and also sits upon the axiom that the majority of the Council gives direction to staff through the City Manager in a Council-Manager form of government.

Staff has not been able to find any written policy regarding the placement of items on Antioch City Council Agendas. Recent practice in Antioch has been that the City Manager consults with the Mayor in preparing the agenda and Council Members request future agenda items under Council Communications on the City Council Agenda. If there has been a consensus of the Council, the item is placed on a future Agenda. If not, then a second and a vote of three has been required. This was a particularly important practice during the past years with significant reductions in staffing and financial resources, and the critical need not to spend resources on issues that lacked a majority interested in discussing them.

Thus, staff is recommending no significant change; just that a vote be recorded rather than a silent consensus of nodding heads. This eliminates the need for a Council

Member to object to another Council Member's request or possible misinterpretations of whether silence means interest in the item or not. Staff's recommendation would not change the practice of the City Manager consulting with the elected Mayor in setting City Council Agendas.

Alternatives to staff's recommendation include status quo or another method of Council Members placing an item on a future Agenda.

Recommended Changes #3 and #4

In addition, staff is recommending clarifying language on the City Council Agenda under Public Comments and Consent Calendar as follows:

"PUBLIC COMMENTS – Members of the public may comment only on unagendized items. The public may comment on agendized items when they come up on this Agenda."

"CONSENT CALENDAR – Members of the public may comment on Consent Calendar items prior to the City Council considering the entire Consent Calendar. A Council Member may pull an item off of the Consent Calendar for Council discussion."

Alternatives include other language or status quo.

ATTACHMENTS

A. Recommended Template for City Council Agenda (Red-Line)

RECOMMENDED TEMPLATE
FOR CITY COUNCIL AGENDA



AGENDA

Antioch City Council Regular Meeting

Date:

Time: _: _ P.M. – Closed Session
 7:00 P.M. – Regular Meeting

Place: Council Chambers, 200 H Street

Wade Harper, Mayor
Lori Ogorchock, Mayor Pro Tem
Mary Helen Rocha, Council Member
Tony Tiscareno, Council Member
Monica E. Wilson, Council Member

Arne Simonsen, City Clerk
Donna Conley, City Treasurer

Steven Duran, City Manager
Lynn Tracy Nerland, City Attorney

PLEASE TURN OFF CELL PHONES BEFORE ENTERING COUNCIL CHAMBERS.

Electronic Agenda Packet viewing at: <http://www.ci.antioch.ca.us/CityGov/agendas/FindAgenda.asp>
With Project Plans at: <http://ci.antioch.ca.us/CityGov/CommDev/PlanningDivision/docs/Project-Pipeline.pdf>
Hard Copy viewing at: Antioch Public Library, 501 W 18th St, Antioch, CA
Online Viewing: <http://www.ci.antioch.ca.us/CityGov/citycouncilmeetings.asp>

Council meetings are televised live on Comcast Channel 24

Notice of Availability of Reports

This agenda is a summary of the actions proposed to be taken by the City Council. For almost every agenda item, materials have been prepared by the City staff for the Council's consideration. These materials include staff reports which explain in detail the item before the Council and the reason for the recommendation. The materials may also include resolutions or ordinances which are proposed to be adopted. Other materials, such as maps and diagrams, may also be included. All of these materials are available at the City Clerk's Office, located on the 3rd Floor of City Hall, 200 H Street, Antioch, CA 94509, during normal business hours for inspection and (for a fee) copying. Copies are also made available at the Antioch Public Library for inspection. Questions on these materials may be directed to the staff member who prepared them, or to the City Clerk's Office, who will refer you to the appropriate person.

Notice of Opportunity to Address Council

The public has the opportunity to address the Council on each agenda item. To address the Council, fill out a yellow Speaker Request form, available on each side of the entrance doors, and place in the Speaker Card Tray. See the Speakers' Rules on the inside cover of this Agenda. Comments regarding matters not on this Agenda may be addressed during the "Public Comments" section.

 : P.M. **ROLL CALL – CLOSED SESSION** – for Council Members

PUBLIC COMMENTS for Closed Session

CLOSED SESSION:

7:00 P.M. **ROLL CALL – REGULAR MEETING** – for Council Members

MOMENT OF SILENCE FOR PRAYER OR MEDITATION

PLEDGE OF ALLEGIANCE

1. **PROCLAMATIONS**

ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS

ANNOUNCEMENTS OF BOARD AND COMMISSION OPENINGS

PUBLIC COMMENTS – Members of the public may comment only on unagendized items. The public may comment on agendized items when they come up on this Agenda. –*Only unagendized issues will be discussed during this time*

CITY COUNCIL COMMITTEE REPORTS

MAYOR'S COMMENTS

2. **PRESENTATIONS**

3. **CONSENT CALENDAR – Members of the public may comment on Consent Calendar items prior to the City Council considering the entire Consent Calendar. A Council Member may pull an item off of the Consent Calendar for Council discussion.**

PUBLIC HEARINGS

COUNCIL REGULAR AGENDA

PUBLIC COMMENT

STAFF COMMUNICATIONS

COUNCIL COMMUNICATIONS AND FUTURE AGENDA ITEMS – Council Members report out various activities and any Council Member, with a motion, a second and three or more votes, may place an item for discussion and direction on a future agenda.

ADJOURNMENT

List Serve Inquiry	
Agency	Response
City of Aliso Viejo	Any Council member may add items to the agenda. Upon direction of the Council, staff will prepare staff reports and/or recommendations.
City of Arcadia	A Council member requesting an item be placed on an agenda must get the concurrence of 2 other Council members, for a majority 3 votes. No written policy.
City of Baldwin Park	Response did not answer the question posed.
City of Burbank	1-2 step process. 1st step, is for the entire Council to see if they agree to have an in depth item. Is so, then staff brings back a full report. Can also agree at the initial request to skip step 1 and go to step 2 if there is a majority (approval) of the Council.
City of Calabasas	The Mayor, in consultation with the City Manager, sets the agenda. The Mayor, or 2 Council members, may place an item on the agenda.
Central Contra Costa Sanitary District	A Board member can ask for something to be scheduled and the Board President checks to see if there is interest in doing so.
City of Chula Vista	Items of business shall be placed on the agenda at the direction of the City Manager, City Attorney, City Clerk, or a majority of the Council.
City of Colfax	No procedure, but will be looking at one.
City of Coronado	Any Council member may request an item to be discussed. If a majority of the Council vote to include the item as an action item at a subsequent meeting, staff will be directed to prepare a staff report on the matter.
City of Covina	Response did not answer the question posed.
Dublin San Ramon Services District	A director may ask that a new item be placed on a future committee or board agenda during the board member Items portion of a board meeting or during the committee comments portion of a committee meeting. However, in such cases, the advance notice requirements of the Brown Act only allow the committee to decide to place such a matter on a future agenda; the matter cannot be discussed at the meeting at which it was first mentioned.
City of Fillmore	Requires the majority of the Council to agree to place an item on a future agenda. No written policy.
City of Fort Bragg	The City Council may request, under Matters from Councilmembers, that an item be placed on a future agenda. If the item requires significant staff work, the City Manager can, at his or her discretion, inform the Councilmembers when the staff work shall be available and agendize the item accordingly. The City Manager may add items to the Council agenda. The Department Managers, with the City Manager's approval, may add items to the Council agenda.
City of La Quinta	Any Council member may request, but if it requires staff research, staff report or request for a Council vote, it must have the support of the majority of the Council. In addition, the Mayor, City Manager or City Attorney may add items to future agendas.
City of Lake Forrest	No formal policy, but requires consensus of 3 Council members.
Las Virgenes Water District	Any Board member can request a future agenda item - it must have a 2nd and is voted on accordingly.
City of Lawndale	Any Council member may request. No formal policy.

Agency	Response
City of Martinez	The Mayor has final approval over inclusion of any/all agenda items. Council members may request through the Mayor for an item to be added, but no staff work is done unless a majority of the Council approves the work. At a Council meeting, a Council member may request by motion that an item be added to a future agenda - the motion must receive a 2nd and majority vote of the Council. Staff work is still not done until that work is approved by a majority of the Council.
City of Monrovia	Any Council member may request, with approval of the majority of the Council at a Council meeting, to have an item placed on a future agenda to be considered as a matter of City business. Council may request discussion items through the City Manager.
Town of Paradise	One Council member can place an item on the next agenda under Future Agenda Items.
City of San Carlos	Traditionally required the support of 3 Council members. Changed to support of 2 Council members, but have discussed going back to 3 given the taxing requirements on staff. Will be discussing again 1/26/15.
City of San Leandro	Any item raised as a future agenda item by a Councilmember will, by consensus of the Council, be referred to staff for placement on an upcoming Council agenda.
City of Vista	Agenda item on 1/27/15 - allow for an item to be placed on the agenda at the direction of two councilmembers, and to require a majority of the City Council to authorize an item, for which a vote has previously been taken, to be placed on a future City Council meeting agenda. (Previously required a majority of Council member's approval)
City of Wildomar	Council can request items, and if 3 "heads are bobbing" it is put on. Mayor and Mayor Pro Tem can request at the agenda setting process. No formal procedure - just "understood."
24 total	Any member = 4 (1 requires Council majority before any staff work); 2 members required = 3; majority consensus required = 14; no response = 3

Contra Costa Inquiry

Agency	Response
Concord	City Council by majority vote, or the City Manager place items on the agenda.
Danville	Requires majority vote, usually by consensus.
El Cerrito	Any Council member can place an item on the agenda.
Hercules	Mayor and City Manager, or majority of Council.
Lafayette	Usually by consensus, but technically would require 3 votes.
Moraga	Mayor and City Manager, or consensus of Council - on rare occasion require actual majority vote.
Oakley	The Mayor, the City Manager, or a majority of the Council can place items on the agenda.
Orinda	By the City Manager or a majority of the Council.
Pinole	Usually by consensus, but technically would require 3 votes.
Pleasant Hill	Mayor or majority vote of Council.
Richmond	Any Council member can place an item on the agenda.
San Pablo	Requires majority vote.
San Ramon	City Manager sets the agenda. If Council members want a new item, it's brought to a standing sub-committee. If sub-committee supports moving the item to Council, it is moved forward.
Walnut Creek	Requires consent of the Council.
14 total	Any member = 2; 2 members = 1; majority consensus = 11

SPEAKERS' RULES

Welcome to a meeting of the Antioch City Council. Whether you're a first-time visitor or an "old-timer," we appreciate your attendance.

Because we usually have busy agendas and a lot of business to get through, we need to have some rules so the meeting can be completed at a reasonable hour. Your cooperation is very much appreciated. The State Ralph M. Brown Act guarantees the public's right to address the City Council, within the framework of these rules.

The Council can only take action on items that are listed on the agenda. If you wish to speak to us about an item **not on the agenda**, the "Public Comments" section of the agenda is for you. We will take such comments until no later than 7:30, when we will move on to agenda items. There is another opportunity for public comments at the end of the meeting.

If you wish to speak, either during "public comments" or during an agenda item, fill out a Speaker Request Form and place in the Speaker Card Tray. This will enable us to call upon you to speak.

Each speaker is limited to not more than three minutes under Public Comments and three minutes on non-public hearing agenda items. During public hearings, each side is entitled to one "main presenter" who may have not more than 10 minutes; all other speakers during a public hearing item are entitled to a maximum of 5 minutes. These time limits may be modified depending on the number of speakers, number of items on the agenda or circumstances. No one may speak more than once on an agenda item or during "public comments." Groups who are here regarding an item may identify themselves by raising their hands at the appropriate time to show support for one of their speakers.

During certain types of hearings, the applicant is allowed to give his or her presentation first. After all testimony is received, the applicant has an opportunity for rebuttal.

After having heard from the public, the agenda item will be closed. Deliberations will then be limited to members of the City Council.

If the meeting appears to be going late, the City Council may decide to continue some items until a subsequent meeting. We will try to make this determination around 10:00 p.m. It is the goal to stop discussing agenda items by not later than 11:00 p.m.

The "Consent Calendar" is a group of items which staff thinks may be routine. These items are usually considered all together and approved without further discussion. If you are opposed to action which is recommended for an item on the "Consent Calendar," please submit a Speaker Request Form to let the Mayor know at that part of the agenda and the item will be removed from the "Consent Calendar."

* * * * *

The City Council meetings are accessible to those with disabilities. Auxiliary aides will be made available for persons with hearing or vision disabilities upon request in advance at (925) 779-7009 or TDD (925) 779-7081.

The Council meets regularly on the second and fourth Tuesdays of the month at 7:00 p.m. in the Council Chambers, City Hall with Closed Sessions often occurring before or after the regular meeting. The Council also holds adjourned and study sessions on other days.

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