

**ANTIOCH CITY COUNCIL
ANTIOCH DEVELOPMENT AGENCY**

Regular Meeting
7:00 P.M. - Regular Meeting
6:00 P.M. – Closed Sessions

July 28, 2009
Council Chambers

1. **CONFERENCE WITH LABOR NEGOTIATOR** – Employee organizations: Public Employees' Union Local No. 1, Operating Engineers Local Union No. 3, Antioch Police Officers' Association, Antioch Police Sworn Management Association, Management Group, Confidential Group, Treatment Plan Employees; Association. This Closed Session is authorized by California Code §54956.9(a).

2. **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION – Administrative Civil Liability Complaint No. R5-2006-0512** issued by the California Regional Water Quality Control Board – Central Valley Region to the City of Antioch and Somersville-Gentry, Inc. re: Markley Creek; SPPI-Somersville, Inc. et al. v. TRC et al. (USDC N.D. Cal Case No. C04-2648 SI); SPPI-Somersville, Inc. et al. v. Chevron (USDC N.D. Cal. Case No. C07-05824 SI). This Closed Session is authorized to Government Code §54956.9(a).

Mayor Davis called the meeting to order at 7:00 P.M., and City Clerk Martin called the roll.

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

PLEDGE OF ALLEGIANCE

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

City Attorney Nerland stated the City Council had been in Closed Session and provided the following report: CONFERENCE WITH LABOR NEGOTIATOR, no reportable action, and: CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION, no reported action.

PRESENTATIONS - Mayor's Golf Tournament Recipient

Gina Lombardi-Gravert reported on the Golf Tournament and expressed her appreciation to those businesses that sponsored the event, as well as all other participants.

Matt Pfeifer and Mayor Davis presented the checks to the recipients.

PROCLAMATIONS - Honoring Leo Fontana

On motion by Councilmember Moore, seconded by Councilmember Parsons, the Council unanimously approved the Proclamation honoring Leo Fontana.

Mayor Davis read the Proclamation.

Robert Linscheid, Alumni Trustee Member of the California State University, spoke to the chronicling of Leo Fontana's accomplishments and presented Mr. Fontana with an Honorary Doctorate from California State University East Bay Concord Campus.

Leo Fontana expressed his appreciation for the Proclamation presented to him by the City. Mr. Fontana elaborated on the history of Antioch and commended the dedication and commitment given by the community over the years.

Councilmember Moore expressed his appreciation to Mr. Fontana for his service and commitment to the community.

Councilmember Parsons expressed her appreciation to the dedication and commitment Mr. Fontana has given to the community.

Councilmember Rocha expressed her appreciation to Mr. Fontana.

Councilmember Kalinowski expressed his appreciation to Mr. Fontana.

Mayor Davis expressed his appreciation to Mr. Fontana for his service and commitment to the community.

The City Council, as a group, presented the Proclamation to Mr. Leo Fontana.

ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS

Mike Schneider and Tom Fuhrman, representing the Iron Spartans Law Enforcement Motorcycle Club, presented a check from proceeds collected from a recent community charity event to Jason Geizer and James Vincent, two Antioch Police Officers who were recently paralyzed in two separate accidents.

Councilmember Kalinowski announced a charity event would be held with proceeds being given to Antioch Police Officers Jason Geizer and James Vincent, would be held on Saturday, September 19, 2009 at the Antioch Prewett Water Park,.

Bill Worrell, representing the Million Boat Float, distributed written information to the Council opposing the peripheral canal and announced upcoming events related to the event.

Mark Roberts, Curator of the Lynn House Gallery, spoke to the importance of the arts within the community and expressed his appreciation to the City for their support.

Allen Payton announced on August 29, 2009, Wine for Wheels would be held at the Antioch Historical Society Museum.

PUBLIC COMMENTS

Resident Mary Dodson expressed concern to the homelessness within the Rivertown area.

Freddrick Mohammad, resident, expressed concern regarding perceived "racial profiling" within the community and felt the issues needed to be discussed and agendized in the near future.

Jarvis Blackman, Jr., resident, felt there was a serious lack of opportunity for students within the community, resulting in a high crime rate within the community and felt it could be prevented at the junior high and high school level.

Devi Lanphere, Antioch Chamber, announced the second leg of the Great Race of Antioch would be held in the near future.

COUNCIL RESPONSE TO PUBLIC COMMENTS

Councilmember Moore spoke to Mr. Mohammed's comments, and stated that he would like to see continual dialogue between Council and Mr. Mohammed's group through a Study Session before the item was placed on the City Council's agenda. He stated he was committed to the issue and would discuss with the Mayor in moving forward.

Mayor Davis stated any type of investigation was held confidentially through the proper procedures of the City and not through the public.

Councilmember Kalinowski stated if Mr. Mohammed was speaking to any type of police brutality, he would have no interest in participating. He would be amenable to discussions regarding social outreach programs and components of related issues, but would not support any type if investigation conducted confidentiality through City procedures.

MAYOR'S COMMENTS

Mayor Davis announced a five minutes recess would be taken, wherein the Council reconvened with Councilmembers Kalinowski and Moore absent.

1. CONSENT CALENDAR

A. APPROVAL OF COUNCIL MINUTES FOR JULY 14, 2009

B. APPROVAL OF COUNCIL WARRANTS

C. REJECTION OF CLAIM – rejected

1. Ismael Pacheco 09/10-1896 (property damage)

D. ORDINANCE NO. 2032-C-S ADDING SECTION 5-17.06 TO THE ANTIOCH MUNICIPAL CODE REGARDING WAIVERS TO ESTABLISHED CONSTRUCTION HOURS (Introduced 7/14/09)

E. RESOLUTION NO. 2009/64 ACCEPTING WORK AND AUTHORIZING CITY ENGINEER TO FILE A NOTICE OF COMPLETION FOR THE MARKLEY CREEK REMEDIATION PROJECT (P.W. 431-1A)

- F. **RESOLUTION NO. 2009/65 APPROVING PROGRAM SUPPLEMENT AGREEMENT NO. 012-N TO ADMINISTERING AGENCY-STATE AGREEMENT NO. 04-5038R FOR FEDERAL AID PROJECTS FOR THE HILLCREST AVENUE OVERLAY PROJECT (P.W. 392-24)**
- G. **RESOLUTION NO. 2009/66 AUTHORIZING THE CITY OF ANTIOCH TO JOINTLY APPLY WITH THE CITIES OF PITTSBURG, WALNUT CREEK AND CONCORD FOR \$1.2 MILLION IN HOMELSSNESS PREVENTION AND RAPID RE-HOUSING PROGRAM (HPRP) FUNDS**
- H. **RESOLUTION NO. 2009/67 APPROVING LETTER OF UNDERSTANDING FOR THE CONFIDENTIAL UNIT**
- I. **RESOLUTION NO. 2009/68 APPROVING LETTER OF UNDERSTANDING FOR THE MANAGEMENT UNIT**
- J. **RESOLUTION NO. 2009/69 APPROVING LETTER OF UNDERSTANDING FOR OPERATING ENGINEERS LOCAL UNION NO. 3**
- K. **CONSIDERATION TO REJECT ALL BIDS FOR THE HILLCREST AVENUE PAYMENT OVERLAY PROJECT, (P.W. 392-24)**

Councilmember Parsons pulled Consent Calendar Item No. D.

On motion by Councilmember Rocha, seconded by Councilmember Parsons, the City Council approved the Consent Calendar, with the exception of Consent Calendar Item No. D.

AYES: Rocha, Parsons and Davis

ABSENT: Kalinowski and Moore

Item #D - Councilmember Parsons wanted to ensure if there were numerous complaints regarding the item it would be brought back to the City Council for further discussions at a later date.

On motion by Councilmember Parsons, seconded by Councilmember Rocha, the City Council approved Consent Calendar Item No. D.

AYES: Parsons, Rocha and Davis

ABSENT: Kalinowski and Moore

Councilmembers Kalinowski and Moore returned to the dais.

PUBLIC HEARINGS

- 2. **STREET LIGHT AND BUILDING ENERGY RETROFIT PROGRAM WITH HONEYWELL INCORPORATED (*Continued from 6/9/09 and 7/14/09*)**

On motion by Councilmember Rocha and seconded by Councilmember Parsons, the City Council approved the continuation of Item No. 2.

AYES: Rocha, Parsons, Moore, Davis

ABSTENTION: Kalinowski

3. RESOLUTION ORDERING IMPROVEMENTS AND LEVYING ANNUAL ASSESSMENTS FOR STREET LIGHT AND LANDSCAPING MAINTENANCE DISTRICTS 1, 2A, 4, 5, 9 AND 10 FOR THE 2009/2010 FISCAL YEAR (PW 500)

Administrative Analyst Hoffmeister provided a summary of the staff report dated July 20, 2009.

Mayor Davis opened the public hearing, and with no comments taken, the public hearing was closed.

RESOLUTION NO. 2009/70

On motion by Councilmember Kalinowski, seconded by Councilmember Parsons, the City Council unanimously approved Item No. 3.

COUNCIL REGULAR AGENDA

4. GENERAL FUND CONTRIBUTION TO STREET LIGHT AND LANDSCAPE ASSESSMENT DISTRICTS FOR FISCAL YEAR 2009/2010

Public Works Director Bernal provided a synopsis of the staff report dated July 21, 2009 with the aid of a Power Point Presentation.

Councilmember Moore stated he did not want to shut down the restrooms or stop any garbage pickup.

Councilmember Rocha expressed concern due to the recent economy downturn, she could not vote in favor of the Health and Safety level, per the staff report. She felt a share of costs needed to be implemented.

Councilmember Kalinowski felt a disservice would be done to the community overall if a maintenance level would be taken down, as proposed. He stated he was not willing to scale back any current maintenance service and felt it would be a disservice for business retention and enticing business, as well as an overall deterioration of the quality of life.

Councilmember Kalinowski stated he would support Option 1, per the staff report.

On motion by Councilmember Kalinowski, seconded by Councilmember Moore, the City Council moved that Option 1 be adopted by the following vote.

AYES: Kalinowski, Moore, Rocha and Parsons

NOES: Davis

5. RESOLUTION EXPRESSING CONCEPTUAL SUPPORT FOR THE MIRANT MARSH LANDING GENERATING STATION PROJECT

Economic Development Director Bjerke noted a correction was distributed to the Council and proceeded to read the corrected staff report. He stated it was staff's recommendation the City

Council adopt the proposed resolution expressing conceptual support for the Mirant Marsh Landing Generating Station Project.

John Chillemi, Mirant California, provided a brief overview of the Mirant Marsh Landing Generating Station Project.

Councilmember Kalinowski felt \$1.7M was a bit short of his expectation and questioned if the \$1.7M could be supported for the first ten years, after which time, it would then be revisited. Mr. Chillemi stated he was not authorized to amend the proposed resolution, but would discuss the issue with his counterparts.

City Attorney Nerland suggested wording be changed within the proposed resolution, No. 3, by striking the word "approximately" and replacing it with "minimally".

Councilmembers Moore and Parsons expressed their appreciation to Mirant California in bringing this facility to the community.

RESOLUTION NO. 2009/71

On motion by Kalinowski, seconded by Councilmember Parsons, the City Council unanimously approved the conceptual support for the Mirant Marsh Landing Generating Station Project, with the change to No. 3, within the resolution, changing the word "approximately" to "minimally" \$1.7 million dollars. Furthermore, within 90 days the applicant would take the opportunity with staff to discuss a 10 year contract.

6. UPDATE ON FINANCIAL STATUS AND PROVIDE DIRECTION TO STAFF ON THE FISCAL YEAR 2008-10 BUDGET

City Manager Jakel provided an introduction of the staff report dated July 15, 2009.

Finance Director Merchant and Assistant City Manager Mornick further spoke to the staff report with the aid of a Power Point Presentation.

Councilmember Kalinowski reported on a recent meeting regarding the Library and it was agreed that Supervisor Glover would take the issue to the City and County Government Relations Group to generate bringing suggestions forward. He further spoke about future budget increases and felt Antioch was not getting their fair share.

Mayor Davis opened the public hearing.

Mayor Davis read into the record a letter received from resident Carl Carey.

Bob Martin, representing Antioch Historical Society, expressed concern to the budget cuts and requested the City Council continually support the Historical Society, ensuring the Society's ability to preserve the past historical aspects of the community. He further stated the Society would continue to look for outside funding sources.

Jason Miller, representing Hapgood Theatre Co., expressed his appreciation to the Council for their continued support of the arts and requested the City continue to provide the City of Antioch local access to arts and cultural event, stating they stimulate both the economy and those participating individuals. He introduced the Hapgood Theatre Co. Board Members.

Allan Payton expressed his concern to any further of cutting of police positions and to the recent increase in crime. He suggested the Community Service Officers be hired back, that they provide some relief to the current police officers on the streets.

Rollie Katz, representing Public Employees Union Local One, spoke to the present economic situation of California and stressed the need for reform in both State and local government.

Per the request of Mayor Davis, Lonnie Karste stated he would provide a list that would show a combination of operating hours for the library.

Councilmember Moore stated he was opposed to any further hours being cut at the Libraries, and especially cutting the hours back to 35 hours in October. He felt it would be a detriment to the community and felt some type of attempt should be made to find additional funding.

Mayor Davis stated he felt a solvent City was more important at this time.

Councilmember Kalinowski felt the issue should be left to individual Councilmembers to contact Supervisor Glover.

LIBRARY HOURS

On motion by Councilmember Kalinowski, seconded by Councilmember Parsons, the City Council approved the 52 hours of service until \$40,000 had been spent, taking the City to approximately October, 2009. At that time the Library hours would be dropped to 35 hours per week at a cost of \$100,000 for the balance of the fiscal year.

AYES: Kalinowski, Parson, Rocha and Davis

NOES: Moore

Councilmember Moore stated for the record, he was opposed to any hourly cuts to the Library, but not opposed to the \$140,000. He felt the Library should be fully funded.

REDISTRIBUTION OF GARBAGE FRANCHISE FEES TO THE SOLID WASTE FUND

Assistant City Manager Mornick clarified for the record, the City Council was satisfied with the redistribution of Garbage Franchise Fee to the Solid Waste Fund, per the staff report. Councilmember Kalinowski agreed with the caveat *should the City fall below its expected recycle rate, the issue would be brought back for further discussion.*

ARTS & CULTURAL FOUNDATION AND TRANSIENT OCCUPANCY TAX (TOT)

Councilmember Rocha felt funding should be continued and it be reviewed in the next quarter.

On motion by Councilmember Rocha, seconded by Councilmember Moore, the City Council approved to support the Arts & Cultural Foundation and TOT at a total commitment of \$70,000 for FY10.

AYES: Rocha, Parsons and Moore

NOES: Kalinowski and Davis

HAPGOOD THEATRE

City Manager Jakel suggested \$20,000 come out of the RDA funds and would go toward rent.

Councilmember Parsons supported funding \$20,000 out of RDA funds and supported the theatre, due to the economic vitality it brings to the downtown area.

Councilmember Moore supported \$20,000 out of the RDA; due to the fact new RDA monies would be coming into the City with recent new home sales, wherein the RDA funds would be replenished.

Councilmember Rocha stated she was against funding the theatre, because she felt other agencies were suffering and needed the RDA monies.

Councilmember Kalinowski stated his support for the theatre and felt it was a great opportunity for the downtown area. But at some point he felt the City needed to stop the "bleeding" of City funds.

Mayor Davis voiced his support of the theatre, but agreed with Councilmembers Rocha and Kalinowski; he reiterated City's need to earmark any undesignated funds available.

On motion by Councilmember Moore, seconded by Councilmember Parsons, the City Council voted to approve a contribution to Hapgood Theatre in the amount of \$20,000 to be taken out of RDA funds.

The motion failed by the following vote:

AYES: Moore and Parsons

NOES: Kalinowski, Rocha and Davis

Councilmember Parsons suggested the City Council, City Treasurer and City Clerk join the City employees in taking a 10% cut in pay, as well as a \$100 gas allotment cut, to state their appreciation to the City employees.

Councilmember Kalinowski spoke to the California budget and stated he was disappointed with the elected officials, in that, he felt nothing had been accomplished to address the fundamental problems in Sacramento.

7. ANTIOCH DEVELOPMENT AGENCY CONSENT CALENDAR

A. APPROVAL OF AGENCY WARRANTS

On motion by Councilmember Kalinowski, seconded by Councilmember Rocha, the City Council unanimously approved the Agency Warrants.

PUBLIC COMMENTS – None

STAFF COMMUNICATIONS

City Manager Jakel announced there would only be one meeting in August, held on August 11, 2009.

COUNCIL COMMUNICATIONS

Mayor Davis requested an item be agendized for the September agenda regarding the rise in the City's crime rate. Furthermore, in preparation for the requested item on the City's Crime Rate, he also requested Council be provided an update on the City's crime rate at the August 11, 2009 meeting.

Councilmember Rocha reminded the community to be vigilant throughout the City's neighborhoods, in respect to squatters, and encouraged the public to contact the City. She also encouraged the community to volunteer in the cleaning of abandoned homes.

Mayor Davis expressed his appreciation to the City's Police Department.

Police Chief Hyde announced *National Night Out* would be held on August 4, 2009.

PUBLIC COMMENTS for Closed Session

CLOSED SESSION – CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION – Administrative Civil Liability Complaint No. R5-2006-0512 issued by the California Regional Water Quality Control Board – Central Valley Region to the City of Antioch and Somersville-Gentry, Inc. re: Markley Creek; SPPI-Somersville, Inc. et al. v. TRC et al. (USDC N.D. Cal Case No. C04-2648 SI); SPPI-Somersville, Inc. et al. v. Chevron (USDC N.D. Cal. Case No. C07-05824 SI). This Closed Session is authorized to Government Code §54956.9(a).

With no further business, Mayor Davis adjourned the meeting at 10:00 P.M. to the next regularly scheduled meeting on August 11, 2009.

Respectfully submitted:

L. JOLENE MARTIN
City Clerk, CMC