

CITY COUNCIL MEETING

Regular Meeting
7:00 P.M.

December 10, 2013
Council Chambers

6:15 P.M. - CLOSED SESSION

- 1. PUBLIC EMPLOYEE APPOINTMENT** pursuant to Government Code section 54957 and **LABOR NEGOTIATIONS** with prospective employee pursuant to Government Code section 54957.6: Title: City Manager; Negotiators: Mayor Harper, Council Member Wilson, City Manager, City Attorney and Recruiter Phil McKenney.
- 2. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION** pursuant to California Government Code section 54956.9(d)(2): *City of Brentwood v. Campbell*, California Court of Appeal, First District, Case Number A138268.

City Attorney Nerland reported the City Council had been in Closed Session and gave the following report:

#1 PUBLIC EMPLOYEE APPOINTMENT AND LABOR NEGOTIATIONS, No action taken; and **#2 CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**, Direction given to City Attorney Nerland to continue this item to January 2014.

Mayor Harper called the meeting to order at 7:04 P.M. and Minutes Clerk Eiden called the roll.

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

PLEDGE OF ALLEGIANCE

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

PROCLAMATIONS

In Honor of City Manager Jim Jakel's Retirement

On motion by Councilmember Tiscareno, seconded by Councilmember Rocha, the Council unanimously approved the Proclamation.

The City Council thanked City Manager Jakel for his dedication, support and positive influence in Antioch. They thanked him for his service and noted he would be greatly missed.

Supervisor Mary Piepho, on behalf of the Contra Costa County Board of Supervisors, presented City Manager Jakel with a resolution thanking and recognizing him for his service and leadership.

Satinder Malhi, on behalf of Senator Mark DeSaulnier and residents of the 7th Senate District, thanked Jim Jakel for years of dedicated service to the community of Antioch.

Mayor Harper announced he would be presenting a proclamation to City Manager Jakel from Assemblyman Jim Frazier's office.

The City Council presented City Manager Jakel with the proclamation from the City of Antioch.

ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS - None

ANNOUNCEMENTS OF BOARD AND COMMISSION OPENINGS

Mayor Harper announced the following Commission opening.

- *Parks and Recreation Commission: Four (4) vacancies (full terms expiring April 2014); deadline date is January 30, 2014*

PUBLIC COMMENTS

Jim Boccio, representing the Bedford Center, presented the City Council with photos and expressed concern regarding the homeless camp on their property. He reported calls to the Antioch Police Department had not resulted in their removal and he requested the City's assistance in the matter.

Mayor Harper encouraged Mr. Boccio to contact Chief Cantando with his concerns.

Councilmember Rocha announced that there would be a meeting at 9:00 A.M. on December 12, 2013 at the Chamber of Commerce office to discuss the homeless issue.

Ronald Jones, California State Association of Letter Carriers, requested the City Council support a resolution in support of a bill to maintain postal service.

Mayor Harper suggested Mr. Jones leave a copy of the resolution for the City Council's review.

Julie Young, Antioch resident, expressed concern regarding Common Core Standards being implemented in Antioch schools and encouraged residents to attend the School Board meeting on December 18, 2013 to voice their concerns on the matter.

Bailey Neff, Antioch resident, expressed concern for the quality of service he received from Republic Services. He requested the City Council place this item on the agenda at the next Council meeting.

Mayor Harper encouraged Mr. Neff to send his questions and concerns to the City Manager's office.

With Council consensus, Item #3 was moved to the next agenda item.

COUNCIL REGULAR AGENDA

3. NEW CITY MANAGER RECRUITMENT

City Attorney Nerland presented the staff report dated December 2, 2013 recommending the City Council: appoint Steven Duran as City Manager; approve the Agreement with Steven Duran for City Manager Services and authorize the Mayor to sign it; and appoint Ron Bernal as Acting City Manager from December 31, 2013 until Mr. Duran begins.

Steve Duran introduced himself and stated he looked forward to serving as Antioch's City Manager.

On motion by Councilmember Wilson, seconded by Councilmember Tiscareno, the Council unanimously appointed Steven Duran as City Manager; approved the Agreement with Steven Duran for City Manager Services and authorized the Mayor to sign it; and appointed Ron Bernal as Acting City Manager from December 31, 2013 until Mr. Duran begins.

COUNCIL SUBCOMMITTEE REPORTS - None

MAYOR'S COMMENTS - None

COUNCIL CONSENT CALENDAR

- A. **COUNCIL MINUTES FOR NOVEMBER 12, 2013 AND NOVEMBER 26, 2013** *Motioned to continue Council Minutes of November 12 and 26, 2013 to January 14, 2014*
- B. **APPROVAL OF COUNCIL WARRANTS**
- C. **ORDINANCE NO. 2077-C-S ADOPTION OF AN ORDINANCE AMENDING THE ZONING CODE TO ALLOW FORTUNE-TELLERS TO BE PERMITTED BY RIGHT IN CERTAIN COMMERCIAL ZONING DISTRICTS** *(Introduced on 11/26/13)*
- D. **RESOLUTION NO. 2013/69 ACCEPTING WORK AND AUTHORIZING THE PUBLIC WORKS DIRECTOR/CITY ENGINEER TO FILE A NOTICE OF COMPLETION FOR THE DEER VALLEY ROAD/DAVISON DRIVE/SUNSET LANE PAVEMENT REHABILITATION PROJECT (P.W. 392-28)**
- E. **RESOLUTION NO. 2013/70 APPROVING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF ANTIOCH AND THE ANTIOCH POLICE SWORN MANAGEMENT ASSOCIATION (AP SMA)**
- F. **RESOLUTION NO. 2013/71 APPROVAL OF THE FIRST AMENDED OUT OF AGENCY SERVICE AGREEMENT TO EXTEND THE PREVIOUSLY APPROVED OUT OF AGENCY SERVICE AGREEMENT WITH PG&E FOR THE PG&E POWER PLANT CURRENTLY IN OPERATION LOCATED AT 3225 WILBUR AVE**

On motion by Councilmember Rocha, seconded by Councilmember Agopian, the City Council unanimously approved the Council Consent Calendar with the exception of Items A and C, which were removed for further discussion.

Item A – Councilmember Rocha requested the approval of minutes be continued to seek clarifications on the attachment containing the conditions of approval for Kelly’s Card Room.

On motion by Councilmember Rocha, seconded by Councilmember Tiscareno, the Council unanimously continued Item A.

Item C – Councilmember Agopian pulled Item C for a separate vote.

On motion by Councilmember Rocha, seconded by Councilmember Tiscareno, the Council approved Item C. The motion carried the following vote:

Ayes: Wilson, Rocha, Tiscareno, Harper

Noes: Agopian

PUBLIC HEARING

2. **GP-13-02, Z-13-07, PD-08-01, PW 608, UP-08-01: THE POINTE – DISCOVERY BUILDERS REQUESTS THE APPROVAL OF A GENERAL PLAN AMENDMENT (GPA) FROM LOW DENSITY RESIDENTIAL TO INCLUSION IN THE SOMERSVILLE ROAD CORRIDOR FOCUS AREA AND TO ADD LANGUAGE TO THE GENERAL PLAN WAIVING THE REQUIREMENTS OF CERTAIN APPLICABLE SECTIONS OF THE GENERAL PLAN RELATED TO HILLSIDE DEVELOPMENT; A REZONE FROM HILLSIDE PLANNED DEVELOPMENT (HPD) DISTRICT TO PLANNED DEVELOPMENT (PD) DISTRICT; AN AMENDMENT TO THE ZONING ORDINANCE TO PROVIDE THE CITY COUNCIL WITH THE DISCRETION TO DETERMINE IF THE HILLSIDE PLANNED DEVELOPMENT POLICIES APPLY TO A PROJECT; A VESTING TENTATIVE MAP; A FINAL PLAN DEVELOPMENT; AND A USE PERMIT IN ORDER TO CREATE 60 LOTS INTENDED FOR SINGLE FAMILY HOMES. THE PROJECT IS GENERALLY LOCATED WEST OF THE INTERSECTION OF SOMERSVILLE ROAD AND JAMES DONLON BOULEVARD (APN: 089-160-010). AN INITIAL STUDY AND MITIGATED NEGATIVE DECLARATION ARE ALSO BEING CONSIDERED FOR ADOPTION. THE PLANNING COMMISSION DID NOT ACT ON THE IS/MND AND BY WAY OF A 5-0 VOTE, WITH ONE VACANCY AND ONE COMMISSIONER ABSENT, RECOMMENDED THE CITY COUNCIL DENY THE GENERAL PLAN AMENDMENT, REZONE, FINAL DEVELOPMENT PLAN, VESTING TENTATIVE MAP, AND USE PERMIT.**

Director of Community Development Wehrmeister provided the regulatory context background for land use and the California Environmental Quality Act (CEQA).

Senior Planner Gentry presented the staff report dated December 5, 2013 recommending the City Council: 1) Motion to adopt the resolution denying the General Plan amendments. 2) Motion to adopt the resolution denying the rezone of the subject property from Hillside Planned

Development (HPD) to Planned Development (PD). 3) Motion to adopt the resolution denying the Final Planned Development, Tentative Map, and Use Permit.

Mayor Harper opened the public hearing.

City Attorney Nerland reviewed the manner in which the Public Hearing would be conducted.

APPLICANT

Louis Parsons, Discovery Builders Inc./Seeno, gave a brief PowerPoint presentation showing the proposed project. He showed the site and grading plan and the design constraints of the project. He stated they believed a project within the Urban Limit Line should be encouraged. Speaking in regards to Save Mount Diablo's opposition to the project, he noted it would not impact any of their land. He provided the Council with copies of the Conditions Covenants & Restrictions which indicated the project was disclosed to existing homebuyers in the area.

OPPONENTS

Mayor Harper read written comment from Antioch resident, Darryl Parker, who indicated he opposed the project and urged the City Council to uphold the Planning Commission recommendation to deny the General Plan amendment, rezone, Final Development Plan, Vesting Tentative Map and Use Permit.

Robert Williams, Antioch resident, voiced his opposition to the project and expressed concern regarding the project generating increased traffic in the area. He questioned if there were sufficient emergency services for the area. He expressed concern that he had paid a supplemental tax bill for road improvements that had not been completed for the area.

Roy Norwood, Antioch resident, spoke in opposition to the project and urged the City Council to uphold the Planning Commission's decision to deny the General Plan amendment, rezone, Final Development Plan, Vesting Tentative Map and Use Permit.

Radiah Mikel spoke in opposition to the project. She stated she was told when they purchased their home, the property would remain open space and they had paid a premium for their lot based on that information. She expressed concern that fencing was not built to meet the current environmental conditions and the removal of the hills would further impact those conditions. She expressed concern that a gated community would create an artificial separation in the midst of their homes.

Michael Mikel spoke in opposition to the project. He stated when they purchased their home, they were told the property would remain open space and they paid a premium on their lot based on that information. He stated ethically the developer had a responsibility to disclose that there were plans for it to be developed. He expressed concern that the developer does not want to keep the project within the guidelines of the General Plan and the Hillside Planned Development policy.

Rosa Jaureque, Antioch resident, expressed concern for the negative impact the project would have on traffic and habitat for the wildlife in the area.

Rocky Neal, Antioch resident, expressed concern that the current street design in the area does not allow for emergency vehicle access to cul-de-sacs. He reported several residents had grading issues with their properties and expressed concern that significant grading proposed, would create erosion issues to nearby properties. He reported that they were not allowed sufficient time to review the Conditions Covenants & Restrictions and they were misled as to what was in the document.

Larry Tong, East Bay Regional Park District, stated they believe the City can not make the findings needed to approve the General Plan amendment, rezone, Final Development Plan, Vesting Tentative Map and Use Permit. He noted the General Plan provisions for community image and design are critical components of quality of life and should be followed.

Kurt Woodland, Antioch resident, stated he was in agreement with Mr. Tong and the Planning Commission's recommendation to deny the General Plan amendment, rezone, Final Development Plan, Vesting Tentative Map and Use Permit. He commented that the noise study was outdated and not sufficient for current conditions in the area.

Hans Ho, Antioch resident, stated he felt the developer was ignoring the quality of life of residents in the neighborhood and urged the City Council to deny the General Plan amendment, rezone, Final Development Plan, Vesting Tentative Map and Use Permit.

Mayor Harper read written comments from Antioch residents, Darcy Johnson, John Koontz, Margaret Ellen Vertin, and Charity and Jake Meiranda, in opposition to the project.

Paul Hyams, Pittsburg resident, spoke in opposition to the project and urged the City Council to uphold the Planning Commission's recommendation to deny the General Plan amendment, rezone, Final Development Plan, Vesting Tentative Map and Use Permit.

Seth Adams, Save Mount Diablo, reviewed written comments submitted and attached to the staff report which indicated their support for staff's recommendation to deny the General Plan amendment, rezone, Final Development Plan, Vesting Tentative Map and Use Permit.

REBUTTAL

Albert Seeno, Discovery Homes, commented that a Mitigated Negative Declaration was consistent with what was being used for other projects and the amendment requested was discretionary approval, consistent with other cities. He reiterated that the possibility of developing the property had been disclosed to the homebuyers in the Black Diamond Ranch project and development in the area was created to allow access to the hillside for future development. He noted this remainder parcel went through the proper process, was converted from open space, and now they are seeking the City's final approval. In response to concerns from residents, he commented that there would be no hillslides or mudslides, as a result of grading the hillside.

In response to Council, Director of Community Development Wehrmeister stated she was not aware of any other projects in which the hillside zoning ordinance was amended or a variance was granted. She commented that the zoning ordinance was adopted in 1994 and was intended to address development throughout the City. She stated that by not requiring the dedication of open space, the City Council, at the time, left an option open for an applicant to request future development for the area.

In response to Councilmember Wilson, Mr. Parsons clarified ConFIRE had approved a rolled curb for their turnaround access and they would have sign off on their improvement plans.

In response to Mayor Harper, Mr. Seeno clarified the only difference between the Mitigated Negative Declaration and an Environmental Impact Report (EIR) was the EIR would require a significant increase in time, costs and noticing requirements.

In response to Mayor Harper, Director of Community Development Wehrmeister agreed that much of the work had been completed with the Mitigated Negative Declaration and the only issue would be analyzing any changes since the original Mitigated Negative Declaration was prepared.

Councilmember Agopian expressed concern regarding access for emergency vehicles and the pocket park area proposed for the development.

In response to Councilmember Agopian, Director of Community Development Wehrmeister responded that doing an EIR would not have substantial benefit in terms of new information. Senior Planner Gentry responded that there were no significant impacts identified in the traffic study done for the project. Director of Community Development Wehrmeister explained that the intersection at James Donlon Blvd. and Somersville Road was required to be improved prior to the end of 2014.

Mayor Harper closed the public hearing.

Mayor Harper stated he had reviewed the information, listened to the residents, and felt that the disclosure agreement was sufficient in notifying the residents of potential future development. He spoke to the need for development in Antioch.

Councilmember Tiscareno stated he felt the residents had legitimate concerns. He stated he was not opposed to the project and felt it needed to be done properly to satisfy all parties.

A motion was made by Councilmember Tiscareno to direct staff to respond to comments received on the CEQA documents and prepare resolutions for approval. Mayor Harper seconded the motion.

Speaking to the motion, Councilmember Agopian stated he felt it was important for Council to hear the testimony given and render a decision on the project. He noted the hillside ordinance was the key issue and the Council was unaware of how it was adhered to since the time it was adopted. He questioned if there were park-in-lieu fees or a park benefit district proposed. He voiced his opposition to placing a gated community on a graded hill. He stated he would be

willing to work with all interested parties on amending the plan so that there was no mass grading and it complies with the City's hillside policies.

Councilmember Rocha stated she agreed with Councilmember Agopian.

Councilmember Wilson agreed with Councilmember Agopian and Councilmember Rocha and noted amending City Policy would set precedent.

Following discussion, Councilmember Tiscareno stated his intent in the motion was to make sure all outstanding issues were addressed prior to Council considering approval of the project. He withdrew his motion.

Councilmember Agopian requested the developer attempt to resolve the issues with the existing homeowners. He stated he would like the public to see a plan that adhered to the City's Hillside Ordinance and based on that information, he would be prepared to make a decision.

On motion by Councilmember Agopian, seconded by Councilmember Rocha, the Council unanimously continued the matter and:

- Directed staff to respond to comments on Mitigated Negative Declaration
- Directed staff to provide information regarding prior application of hillside ordinance in considering development projects
- Encouraged developer to meet with stakeholders and determine if changes to project can be made to better conform with hillside ordinance and General Plan
- When the matter comes back to Council, directed to staff to bring resolutions to approve and deny project

Mayor Harper declared a recess at 10:06 P.M. The meeting reconvened at 10:17 P.M. with all Councilmembers present.

COUNCIL REGULAR AGENDA

4. IMPLEMENTATION OF THE SALES TAX ORDINANCE (MEASURE C)

City Attorney Nerland presented the staff report dated December 3, 2013 recommending the Council approve the following implementation steps recommended: 1) Motion to adopt a Resolution Authorizing the City Manager to Execute Agreements with the State Board of Equalization for Implementation of a Local Transactions and Use Tax: a. Agreement for Preparation to Administer and Operate City's Transactions and Use Tax Ordinance; b. Agreement for State Administration of City Transactions and Use Taxes. 2) Motion to adopt a Resolution Establishing Procedures for the Sales Tax Citizens' Oversight Committee. 3) Motion to direct Staff to Solicit Applications for the Sales Tax Citizens' Oversight Committee.

Following discussion, the City Council provided feedback on the structure of the Budget subcommittee and requested the Board and Commission vacancy announcement contain

language indicating that the Council's stated priority for expenditures of the funds was for Public Safety and Code Enforcement.

On motion by Councilmember Tiscareno, seconded by Councilmember Rocha, the Council unanimously 1) Adopted a Resolution Authorizing the City Manager to Execute Agreements with the State Board of Equalization for Implementation of a Local Transactions and Use Tax: a. Agreement for Preparation to Administer and Operate City's Transactions and Use Tax Ordinance; b. Agreement for State Administration of City Transactions and Use Taxes. 2) Adopted a Resolution Establishing Procedures for the Sales Tax Citizens' Oversight Committee including the following:

- Staggered terms: Four (4) members to be appointed to four (4) year terms and three (3) members to two (2) year terms with no automatic term limit
- Service on other Boards and Commissions and Committees: Not a disqualification for applicants
- Qualifications: At least one (1) member of the Committee shall have a financial, accounting or auditing background
- Role: The first year, the Oversight Committee shall meet at least three (3) times, with the first meeting being an organizational meeting and subsequent years, at least twice a year.
- Staff Liaison: Finance Director shall be the staff liaison to the Oversight Committee.
- Applications: Direction to staff to solicit applications for the Sales Tax Citizen's Oversight Committee with applications due in the City Clerk's Office by January 16, 2014 at 5:00 P.M.
- Interviews: The Mayor and another Councilmember (Budget Committee member, if available) would participate in the interviews for candidates for the Oversight Committee

5. ADOPTION OF A REVISED ORDINANCE TITLE 6, CHAPTER 1, OF THE ANTIOCH MUNICIPAL CODE REGARDING ANIMALS

Supervisor of Animal Services Helgemo and Lieutenant Aguinaga presented the staff report dated December 4, 2013 recommending the City Council: 1) Motion to read the ordinance by title only; and 2) Motion to introduce an ordinance amending in its entirety Title 6, Chapter 1, Animals, of the Antioch Municipal Code.

Following discussion, the City Council voiced their support for updating the ordinance.

On motion by Councilmember Rocha, seconded by Councilmember Wilson, the Council unanimously 1) Read the ordinance by title only; and 2) Introduced an ordinance amending in its entirety Title 6, Chapter 1, Animals, of the Antioch Municipal Code.

PUBLIC COMMENTS - None

STAFF COMMUNICATIONS

City Manager Jakel reminded Council and the community that there would be no City Council Meeting on December 24, 2013 and City Hall would be closed December 24 and 25, 2013, and

January 1, 2014. He stated it had been a privilege to serve the Council and citizens of the community and the community is in fantastic hands with the City Council and staff.

COUNCIL COMMUNICATIONS

Councilmember Rocha reported that she had been approached regarding issues with the timing of the traffic signal in the area of Delta Fair near the County building. She requested City Attorney Nerland bring back an agenda item regarding elected officials receiving compensation while on extended vacations.

Council consensus supported the City Attorney bringing back a resolution for Council consideration on the matter for the January 14, 2014 meeting.

Councilmember Tiscareno wished everyone a Happy Holiday.

Councilmember Agopian wished everyone a Safe and Happy New Year.

Councilmember Wilson wished everyone a Happy Holiday.

Mayor Harper expressed concern regarding safety issues associated with panhandling and stated services should be offered for those needing help. He stated he would like Council to consider updating the ordinance to address current quality of life issues.

With Council consensus, City Attorney Nerland stated she would provide them with a copy of the ordinance regarding solicitation from medians, for their review.

Mayor Harper stated he wanted Council to promote more of a can-do attitude citywide and noted it had been a very good year.

PUBLIC COMMENTS

John Nagy and Paul Hyams, Laramar Property Management, requested the City Council's assistance in receiving a response from the Antioch Police Department regarding incidents his clients have had at the Mira Vista Hills Apartment Complex in Antioch.

Mayor Harper requested contact information be left with City Manager Jakel for follow up on the matter. Mayor Harper then wished everyone a Merry Christmas.

ADJOURNMENT

With no further business, Mayor Harper adjourned the meeting at 11:08 P.M. to the next regular Council meeting on January 14, 2014.

Respectfully submitted:

Kitty Eiden

KITTY EIDEN, Minutes Clerk