

## ANTIOCH CITY COUNCIL

Regular Meeting  
6:00 P.M.

May 27, 2008  
Council Chambers

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

1. **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.; SPPI-Somersville, Inc. et al v. Chevron.

Mayor Freitas called the meeting to order at 6:13 P.M., and City Clerk Martin called the roll.

Present: Council Members Kalinowski, Moore and Simonsen  
Excused: Mayor Freitas and Council Member Davis

Councilmember Kalinowski announced Mayor Freitas had an excused absence this evening and Councilmember Davis was delayed due to traffic. He reported the City Council had been in Closed Session and there was no reportable action.

### PLEDGE OF ALLEGIANCE

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

### STUDY SESSION

1. **PRESENTATION AND DISCUSSION OF BUDGET DEVELOPMENT FOR SPECIAL REVENUE FUNDS, CAPITAL IMPROVEMENT PROJECTS FUNDS, DEBT SERVICE FUNDS, INTERNAL SERVICE FUNDS, ENTERPRISE FUNDS, ANTIOCH DEVELOPMENT AGENCY AND THE ANTIOCH PUBLIC FINANCING AUTHORITY FOR FISCAL YEARS 2008 2010.**

Finance director Merchant presented the staff report dated May 21, 2008, recommending the City Council provide direction and feedback to staff regarding the budget information provided.

The City Council provided the following feedback and direction to staff:

Staff report page #2 – Councilmember Simonsen stated he would not support 211 funding from the General Fund and requested it be pulled out for separate vote of the City Council during the budget approval process.

Staff report page #1 – Councilmember Moore voiced his opposition for funding a ½ time Deputy District Attorney position noting he felt it was double taxation for the citizens and not feasible given other needs in the City. He requested the item be pulled out for a separate vote of the City Council during the budget approval process. Councilmember Simonsen requested staff provide information on how the position functions in the cities of Concord and Brentwood. Captain Cantando discussed the benefits of adding a ½ time Deputy District Attorney position.

Mayor Pro Tem Davis arrived at 6:27 p.m. Councilmember Kalinowski turned the gavel over to Mayor Pro Tem Davis.

Page #1 – Federal Asset Forfeiture (Fund 210) - Councilmember Simonsen requested staff provide information regarding the planned expenditures for the fund.

Page #6 – Civic Arts (Fund 215) – Councilmember Simonsen requested staff provide long term projections for the Civic Arts fund to ensure it does not decrease to \$0.

Page #10 – Recreation Services (Fund 219) – Councilmember Simonsen requested in the future staff list all “Other” revenue sources separately.

Page #18 – Measure C Growth Management (Fund 222) – Councilmember Simonsen requested the title and summary of the fund reflect the Prop 1B transfer in for the Delta Fair project. In addition, Councilmember Kalinowski requested a notation that CIP projects were accounted for in the fund.

Page #19 – Child Care (Fund 223) – Councilmember Kalinowski requested the item be pulled out for further discussion regarding the expectation for the fund balance and excess revenue.

Page #20 – Tidelands (Fund 225) – Councilmember Simonsen requested staff explore the possibility of using those funds for ferry terminal studies or costs.

Page – #21 – Solid Waste (Fund 226) – Councilmember Simonsen requested Assistant City Engineer Bernal provide clarification as to the action taken by the City Council to designate 3% for use in the solid waste recycling budget account. In response to Councilmembers Kalinowski and Moore, City Manager Jakel stated he would bring a report back to the City Council on the scope of work to implement a recycling program for the City parks.

Page #22 – Solid Waste Reduction (226-5225) – Councilmember Simonsen requested staff change “Taxes” to Fees. Councilmember Kalinowski requested information to the policy decisions the City Council would be making by encumbering the money to implement programs.

Page #24 – National Pollutant Discharge Elimination Services (NPDES) (Fund 229) – Councilmember Simonsen requested staff add a footnote as to the portion the County receives for the Clean Water program and the processing fee from the tax collectors office.

Page #26 – Auxiliary Property Public Buildings (Fund 230) – In response to Councilmember Simonsen, Finance Director Merchant stated she would evaluate the fund and provide information as to how to address the depletion of funds. Councilmember Kalinowski suggested blending the fund with the Child Care (Fund 223).

Page #31 – Street Impact Fund (Fund 241) - Councilmember Simonsen requested staff change “Taxes” to Fees.

Page #41 – Citywide 2A Maintenance District (Fund 256) – In response to Councilmember Simonsen, Director of Community Development Brandt stated staff would provide information on why the assessment fees were reduced.

Page #46 – Street Light and Landscape Maintenance District Administration (Fund 257) – Councilmember Simonsen stated he wanted to ensure the City stayed within the nexus issue with regards to the respected districts and zones within 2A for charges under the Work Alternative Program.

Page #47 – East Lone Tree Street Light and Landscape Maintenance District (Fund 259) - Councilmember Simonsen requested staff provide information on why the assessment fees were reduced.

Mayor Pro Tem Davis announced the City Council would recess from the Study Session at 7:24 p.m. to convene the regularly scheduled meeting. He noted the remainder of the Study Session would be heard after the City Council meeting this evening.

Mayor Pro Tem Davis called the City Council meeting to order at 7:36 P.M., and City Clerk Martin called the roll.

Present: Council Members Kalinowski, Moore, Davis and Simonsen  
Excused: Mayor Freitas

### **PLEDGE OF ALLEGIANCE**

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

### **PROCLAMATION**

Dystonia Awareness Week, June 1-7, 2008

On motion by Councilmember Moore, seconded by Councilmember Kalinowski, the Council unanimously approved the proclamation.

Mayor Pro Tem Davis announced the proclamation would be sent to the appropriate organization.

### **ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS**

Devi Lanphere, representing the Antioch Chamber of Commerce, thanked Iris Archeletta, Guy Bjerke, and Allan Cantando representing Chief Hyde, Jim Jakel and Lonnie Karste for their participation at the State of the City Luncheon and presented them with Edible Arraignments gift boxes. She announced the Chamber Luncheon Series – *Are You a Survivor* with guest speaker Yul Kwon, 2006 Survivor Winner would be held on June 11, 2008 from 12:00 – 2:00 p.m. Contact information was given for anyone wishing to attend.

### **PUBLIC COMMENTS**

Nancy Brandt announced the Laser Engraved Brick program for City Park would be ending on June 6, 2008. Contact information was provided for anyone wishing to participate.

An Antioch resident voiced concern for conflicting information she had received from the City regarding parking her motor home on her property. She requested the City address the issue and rule in favor of allowing her to keep her motor home on her property.

Mayor Pro Tem Davis requested City Manager Jakel respond to the individual.

Devi Lanphere, speaking on behalf of herself and the Chamber of Commerce, spoke in support of the Antioch Police Department and Community Action Team (CAT). She urged the City to stand up to the threat of litigation from Bay Area Legal Aid.

Mary Dotson, Antioch Rivertown resident, questioned if Bay Area Legal Aid was encouraging plaintiffs to claim racism to hide unethical activity. She asked if Section 8 recipients should be allowed to live outside the requirements of the program and if they should be exempt from the CAT mandate in respond to all resident's complaints.

Hans Ho, Antioch resident, spoke in support of the Antioch Police Department and CAT for working cooperatively with the citizens of Antioch and improving the quality of life in Antioch. He urged the City Council to stand firm and not compromise with abusers of the system. He urged citizens of Antioch to voice their support for the APD.

Mayor Pro Tem Davis read written comment provided by Antioch resident, Jesse Zuniga, who indicated his support for the Antioch Police Department.

Traci Cross, Antioch resident voiced her support for the APD and CAT team. She stated she felt the issue was not racial, it was about behavior.

Pat Arellano voiced her support to APD, CAT and the City of Antioch in keeping order in the community and improving the quality of life. She reminded those who abuse the Section 8 program it was not an entitlement, and illegal disruptive behaviors would get reported.

Ellen Hayes, Antioch resident and Antioch Crime Prevention Commissioner, with regards to the pending litigation, voiced her support for CAT, Chief Hyde and APD. She noted the allegations against the CAT were without merit, the complaints against those tenants were based on facts.

Gary Agopian, Antioch resident, voiced his support for the Antioch Police Department who were being wrongly accused by Bay Area Legal Aid. He noted he felt the lawsuit was an effort to misrepresent the lawful investigation of citizen complaints of unlawful behavior.

Gary Gilbert, representing United Citizens for Better Neighborhoods, thanked Councilmembers Kalinowski, Davis, Simonsen and Mayor Freitas for their support of the APD and Chief Hyde. He stated he felt the issues were a result of the Board of Supervisors and the

Housing Authority failing to act and respond to complaints. He urged the City Council to take a firm stand against the lawsuit and continue supporting the APD.

Pam Gabrielli, Antioch resident, spoke in support of CAT and the APD.

Vanessa Jones, Antioch resident and Police Activities League (PAL) volunteer, stated she was on the Section 8 program, had an incident with CAT who treated her with the up most respect. She requested the City implement a mentor program for the youth in the community.

### **COUNCIL RESPONSE TO PUBLIC COMMENTS**

City Attorney Nerland stated she would not comment on the specific cases filed against the City, however; Antioch residents had a right to feel safe in their neighborhoods, and City government has a responsibility to protect this important right. She gave a brief overview of the City's approach to community policing and the creation of the Community Action Team to respond to complaints of nuisance and/or criminal activity at problem properties, whether the occupants are renters or owners. The Community Action Team has been successful in resolving problems sometimes with a single visit because of a genuine desire on the part of most people to be good neighbors. However, in some cases, the occupants are unwilling to address the problem and the Community Action team will work with all stakeholders whether the problem is drug sales, loose pit bulls, violent assaults or other criminal or nuisance activity. The filings of lawsuits ignore the rights of residents to feel safe in their neighborhoods, but the City will continue to respond to problems in a professional and legal manner.

Councilmember Kalinowski thanked Gary Gilbert and UCBN for hosting the Prewett Park Law Enforcement Appreciation Day. He stated the entire City family and leadership perform an excellent job to make the community better for all residents.

Councilmember Simonsen welcomed and thanked Ms. Jones for her involvement with the PAL program. He thanked the public speakers this evening and encouraged them to continue to speak out.

Councilmember Moore voiced his support for the APD and stated he felt anyone giving the impression otherwise was being unfair to the community.

Mayor Pro Tem Davis thanked the public speakers for their comments.

#### **1. COUNCIL CONSENT CALENDAR**

**A APPROVAL OF COUNCIL MINUTES FOR MARCH 25, 29, APRIL 22, 2008 (#301-02)**

**B. APPROVAL OF COUNCIL WARRANTS (#401-01)**

**C. APPROVAL OF TREASURER S REPORT FOR APRIL 2008 (#401-02)**

- D. REJECTION OF CLAIMS**
1. Maeretha Franklin, 08/09-1814 (personal injury, property damage)
  2. AAA California State Automobile Association, 08/09-1801B (property damage)
  3. Kimberly Grace Gifford, 08/09-1813 (personal injury)
  4. Sophia Sanchez, 07/08-1795 (personal injury)
- E. LEGISLATION AND ADVOCACY (#701-04)**
- F. ORDINANCE NO. 2015 C-S AMENDING SECTION 2-1.701 OF THE ANTIOCH MUNICIPAL CODE AMENDING THE SALARY OF THE CITY CLERK (*Introduced 5/13/08*)**
- G. RESOLUTION NO. 2008/52 ESTABLISHING THE APPROPRIATIONS LIMIT FOR THE 2008-09 FISCAL YEAR.**
- H. EXPENDITURES FOR IMMEDIATE REMEDIATION AND REPAIRS AT CITY HALL**
- I. RESOLUTION NO. 2008/53 ACCEPTING COMPLETED IMPROVEMENTS FOR SLATTEN RANCH ROAD AND LONE TREE WAY (PW 655, PW 152-14)**
- J. RESOLUTION NO. 2008/54, RESOLUTION NO. 2008/55 MARKLEY CREEK REMEDIATION PROJECT, STATE WATER RESOURCES CONTROL BOARD STATE REVOLVING FUND LOAN**

On motion by Councilmember Simonsen, seconded by Councilmember Moore, the Council Members present unanimously approved the Council Consent Calendar with the exception of items A, B and E ,which were removed for further discussion.

Item A – Councilmember Simonsen requested separate votes be taken for the minutes.

On motion by Councilmember Moore, seconded by Councilmember Simonsen, the City Council members present unanimously approved the minutes of March 25, 2008.

On motion by Councilmember Simonsen, seconded by Councilmember Kalinowski the City Council approved the minutes of March 29, 2008. The motion carried by the following vote:

AYES: Simonsen, Kalinowski, Davis      ABSTAIN: Moore      ABSENT: Freitas

On motion by Councilmember Kalinowski, seconded by Councilmember Moore, the City Council Members present approved the minutes of April 22, 2008. The motion carried by the following vote:

AYES: Moore, Kalinowski, Davis      ABSTAIN: Simonsen      ABSENT: Freitas

Item B – In response to Councilmember Simonsen, City Manager Jakel clarified Warrant #109568 Antioch High School – Program Funding for \$2,000.00 was annual support for the Every 15 Minute Program.

On motion by Councilmember Simonsen, seconded by Councilmember Kalinowski, the City Council members present unanimously approved item B.

Item E – Councilmember Simonsen gave a brief update on the League of California Cities meeting as it related to action by the City to notify the County regarding the charges from the Tax Collectors Office for processing of property in lieu fees.

On motion by Councilmember Simonsen, seconded by Councilmember Kalinowski, the City Council members present unanimously approved item E.

### **COUNCIL REGULAR AGENDA**

#### **3. ORDINANCE AMENDING SECTIONS 2-5.103 AND 3-12.03 OF THE ANTIOCH MUNICIPAL CODE CHANGING THE SIZE AND COMPOSITION OF THE ECONOMIC DEVELOPMENT COMMISSION**

Economic Development Director Bjerke presented the staff report dated May 22, 2008, recommending the City Council A) Introduce the ordinance by title only; B) Introduce the ordinance changing the size and composition of the Economic Development Commission; and C) Direct staff to announce three (3) openings for the Economic Development Commission.

Councilmember Simonsen stated it was his intent to amend the language to hold a seat for a member recommended from the Chamber of Commerce.

Devi Lanphere, representing the Antioch Chamber of Commerce, stated the Economic Development Commission recommended reducing the size from seven to five members and changing a requirement of whether they lived or had a business in Antioch. She voiced her support for amending language to retain a seat for a recommendation from the Chamber of Commerce. She discussed the goals of the Economic Development Commission and urged approval of the revisions as previously discussed.

Councilmember Kalinowski urged the two remaining members of the Economic Development Commission to work with staff to keep informed of what was occurring and requested staff sends a letter under the Mayor's signature to each home based business to solicit participation on the Economic Development Commission.

Following discussion, Councilmember Moore stated he supported a recommendation from the Antioch Chamber of Commerce for City Council consideration.

On motion by Councilmember Simonsen, seconded by Councilmember Moore, the City Council members present unanimously approved: A) Introduced the ordinance by title only; B) Introduced the ordinance changing the size and composition of the Economic Development Commission; and C) Direct staff to announce three (3) openings for the Economic Development Commission. With the following addition:

Section 3-12.03. Membership

(C) The Antioch Chamber of Commerce shall recommend one member.

#### **4. CONTRACT WITH ALTURA COMMUNICATIONS TO IMPLEMENT NEW TELEPHONE SYSTEM AND NETWORK INFRASTRUCTURE**

Information Systems Project Manager Barton presented the staff report dated March 7, 2008 recommending the City Council approve the contract and authorize the City Manager to sign the contract with Altura Communications for implementation of a new telephone system and network infrastructure.

Peter Bologna, Communications Strategies gave a brief overview of the Avaya phone system and network infrastructure proposed by Altura Communication Solution for the City of Antioch.

On motion by Councilmember Kalinowski, seconded by Councilmember Simonsen, the City Council Members present unanimously approved the contract and authorized the City Manager to sign the contract with Altura Communications for implementation of a new telephone system and network infrastructure

Mayor Pro Tem Davis adjourned to the Antioch Development Agency with all Agency Members present with the exception of Chairperson Freitas who was absent.

#### **5. AGENCY CONSENT CALENDAR**

##### **A. APPROVAL OF AGENCY WARRANTS**

On motion by Agency Member Kalinowski, seconded by Agency Member Simonsen, the Antioch Development Agency Members present unanimously approved the warrants.

Mayor Pro Tem Davis adjourned to the Antioch City Council meeting with all Councilmembers present with the exception of Mayor Freitas who was excused.

**PUBLIC COMMENTS** - None

#### **STAFF COMMUNICATIONS**

City Manager Jakel confirmed a Study Session was scheduled for June 3, 2008 at 6:00 p.m. together with a bid award and the Capital Improvement Budget.

Following discussion, the City Council Members present, with the exception of Councilmember Simonsen indicated they would be available on July 12, 2008 for a Quality of Life Forum. Councilmember Simonsen stated he would be in contact with City Manager Jakel regarding his availability for July 12, 2008 meeting.

City Attorney Nerland reported the City Council would be adjourning to the Study Session on June 3, 2008 at 6:00 at the Maintenance Service Center.

#### **COUNCIL COMMUNICATIONS**



Councilmember Simonsen reported on the League of California Cities budget discussions held on May 21, 2008. Additionally, he noted he met with Senator Torlakson's staff, Assemblyman DeSaulnier and Assemblyman Houston's staff.

Councilmember Moore thanked Councilmember Davis and the committee for putting on an outstanding Memorial Day event. Additionally, he thanked Mayor Freitas who spoke in support of all who had served our County in the military.

Councilmember Kalinowski requested staff work with Councilmember Davis to put a proclamation and/or recognition for those who organized the Memorial Day event.

Councilmember Simonsen requested Economic Development Director Bjerke work with staff to put a proclamation on the agenda to recognize the Antioch Chamber of Commerce 70th Anniversary.

Mayor Pro Tem Davis thanked City staff and the committee who organized the Memorial Day event which was very successful. He acknowledged all Councilmembers for attending the event and those who served for the freedoms of all Americans.

With no further business, Mayor Pro Tem Davis adjourned the meeting at 9:08 p.m. to the Study Session immediately following a recess. Mayor Pro Tem Davis declared a recess at 9:08. The Study Session reconvened at 9:17 with all Councilmembers present with the exception of Mayor Freitas who was excused.

### **STUDY SESSION – Continued**

Page #51 – Sierra Crete (Fund 320) – Director of Capital Improvement Harrington reported the legal requirements for the Sierra Crete Settlement had been completed and the remainder of the fund was up to the discretion of the City Council. He noted it could be transferred to the General Fund, with a minor amount left in the fund in the event future problems arose. Councilmember Simonsen voiced his support for transferring the excess fund balance to the General Fund Reserve. Councilmember Kalinowski stated he was in agreement with Councilmember Simonsen, however, he felt the money should be moved as a placeholder for the 10% fund balance for FY 09-10 and if there was an improvement in expenditures or revenues then the City Council could address the issue. Following discussion, the City Council Members present agreed Fairview Drive should go forward.

Page #52 – Hillcrest Assessment District (Fund 361) – In response to Councilmember Simonsen, Director of Community Development Brandt stated he would provide documentation to City Attorney Nerland regarding the legal nexus for applying funds from the fund to a separate assessment district.

Page #54 – "A" Street Extension (Fund 385) – In response to Councilmember Simonsen, Finance Director Merchant stated staff would evaluate where the excess in fund balance would be allocated.

Page #58 – Water Fund Summary (Fund 611) - Councilmember Moore stated he felt there was a need to adopt a rate increase to maintain the infrastructure.

Page #62 – Water Public Buildings and Facilities – Capital Projects - Councilmember Simonsen requested staff provide a report in the future on the PCI for each street impacted.

Page #74 – Prewett Skateboard Park Center (641-4660) – Councilmember Simonsen requested the costs to provide security at the Skateboard Park be separated out from the Personnel costs and staff provide the City Council's rational for hiring security. Following discussion the City Council requested in the future, the Skateboard Park be agendized with all calls for service and costs associated to maintain the facility. Councilmember Kalinowski requested staff provide an analysis of costs to provide security citywide.

Page #86 ADA Project Area #1 (Fund 331) – In response to Councilmember Kalinowski, City Manager Jakel stated he would look into the possibility of paying off the Antioch Auto Dealership sales tax rebate early with Redevelopment Funds.

Councilmember Kalinowski stated his expectation going forward was when the Budget was adopted that FY -09/10 would not be below the 10% reserve threshold.

Mayor Pro Tem Davis stated he agreed with Councilmember Kalinowski's previous comments.

**PUBLIC COMMENTS** – None

With no further business, Mayor Pro Tem Davis adjourned the Study Session at 10:03 p.m. to the Budget Study Session on June 3, 2008 at 6:00 p.m. at the Maintenance Service Center.

Respectfully submitted:

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L. JOLENE MARTIN, CMC, City Clerk