

**ANTIOCH CITY COUNCIL
ANTIOCH DEVELOPMENT AGENCY**

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

**December 8, 2009
Council Chambers**

6:00 P.M. - CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION – Onita Tuggles v. City of Antioch et al, Northern District Court Case No. C08-01914 JCS; Santeya Danyell Williams, Mary Ruth Scott, Karen Latreece Coleman, Priscilla Bunton, Alyce Denise Payne, v. City of Antioch et al., Northern District Court Case No. C08-02301 SBA; Riaz Patras, Maryann Patras and Mark Patras v. City of Antioch et al., Northern District Court Case No. CV-09-1891. Dearmand E., a minor, by and through Dearmand Ellis Jr., his father /legal guardian et al v. City of Antioch et al., Northern District Court Case No. C08-01709 SI. This Closed Session is authorized by California Government Code §54956.9.

Mayor Davis called the meeting to order at 7:10 P.M.

PLEDGE OF ALLEGIANCE

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

City Attorney Nerland reported the City Council had been in Closed Session. Direction was given to staff. No reportable action was taken.

City Clerk Martin called the Council/Agency roll.

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

1. PRESENTATION BY BLACK DIAMOND MIDDLE SCHOOL EARTH CLUB ON THEIR DELTA WATERWAY CLEAN-UP DAY

Nicholas Gutierrez and members of the Black Diamond Middle School Earth Club gave a brief overhead presentation of the Delta Waterway Clean-up Day event.

Mayor Davis thanked the students for the program and presentation. He recognized the teachers and parents who were involved in the presentation.

Councilmember Parsons encouraged the students to be involved in the 40th Anniversary of Earth Day on April 17, 2010.

2. PRESENTATION BY BART BOARD MEMBER JOEL KELLER REGARDING e-BART UPDATE

Joel Keller, BART Board Member gave a brief update on the eBART project and the projected timeline for construction. He thanked the City Council for their hard work over the years which allowed the project to occur.

In response to Councilmember Parsons, Mr. Keller stated the report regarding the Eastern Median Station would be circulated in the near future.

Board Member Keller recognized Supervisor Glover and Orinda Councilmember Amy Worth and thanked them for their dedication in bringing the project to fruition.

Per inquiry from Dennis Jeglum, Board Member Keller gave a brief history on the funding of the core BART system and the San Jose, San Francisco Airport, Dublin/Pleasanton and Pittsburg/Bay Point extensions.

Fred Hoskins questioned whether or not the BART Board had gone to the federal government to acquire money for a BART extension. Additionally, he questioned what was being done to keep construction dollars local.

Per inquiry from Fred Hoskins, Board Member Keller clarified the project did not qualify for federal funding however it was being left open in the event it did so in the future. He noted there would be a high priority to utilize local firms that qualify.

Per inquiry by Willie Mims, Mr. Keller clarified there was an option for a BART extension should the need and funding become available.

3. PRESENTATION BY ANTIOCH'S GATEWAY CENTERS FOR LEARNING to the Dow Chemical Company, Supervisor Federal Glover- Keller Canyon Landfill Fund, Linda Locke

Gary Agopian introduced those serving on the Gateway Centers for Learning Committee and thanked them for their work in reaching out to business and individuals to raise funds. He recognized Supervisor Federal Glover – Keller Canyon Landfill Fund, Dow Chemical Company and Linda Locke for their contributions.

4. PRESENTATION ON HOMELESS PROGRAM IN CONTRA COSTA COUNTY

This item was postponed to a future date.

ANNOUNCEMENTS OF CIVIC AND COMMUNITY EVENTS

Walter Ruelig, Superintendent Donald Gill, Clare Smith and Debra Gibson-Grey, Antioch Unified School District Representatives invited the Council and public to attend the upcoming holiday concerts being performed at various schools in the district. In appreciation of the City Council working cooperatively with the School District, he presented the Councilmembers with a badge allowing unlimited entrance into School District events and hats with both high school logos.

PUBLIC COMMENTS

James Bohdghard, Veterans Day parade advisor, presented Christina and Corina with parade badges and pins in recognition of their participation in the Veterans Day parade. On behalf of the crew of the Huey helicopter, he presented Mayor Davis with their *coin-in appreciation* for having them participate in the Veteran's Day event.

Mayor Davis thanked Mr. Bohdghard, and the patriotic tradition of flag folding being passed on from the Boy Scouts to the Girl Scouts.

Discussion ensued regarding the large amount of request for Public Comment with the City Council agreeing to limit each speaker to two minutes.

City Attorney Nerland clarified the Public Comment section of the agenda was the time for the public to express comments for items not on the agenda. She noted the City Council would not be engaging in debate, responding or taking any action on items not on the agenda for action.

Kirbie Bell and Erica Mohammad requested what action the City Council would be taking regarding the request to have the formation of a Police Community Relations Board.

Mayor Davis reported an agenda date to consider the issue has not been determined.

Dick Augusta, Antioch resident, spoke in opposition to the formation of a Civilian Police Oversight Committee, noting it could be in violation of General Law City sections of the California Government Code and he felt it would be unnecessary. He urged the City Council to concentrate on budget issues.

Jim Conley, Antioch resident, announced December 13, 2009 was Jack London Elementary School's Winter Concert. He spoke in opposition to the formation of the Police Oversight Committee noting the City Council did not have the ability to give subpoena power or the funds to pay for staff oversight. He noted there were other avenues in place to deal with grievances with the Police Department. Furthermore, it was the City Manager's duty to hire the next Chief of Police.

Dena Jeglum, Antioch resident, spoke in opposition to the formation of a Civilian Police Oversight Committee, noting she felt it would create more division in the community.

Donna Wilson, Antioch resident, spoke in opposition of the formation of a Civilian Police Oversight Committee, noting it would cause diverseness and the costs would be extraordinary. She urged the City Council to focus on those areas of more importance and deserving of their attention.

Martha Aguilera, representing the Rivertown Preservation Society, spoke in support of Chief Hyde and stated they felt the Oversight Committee would be a hindrance to the goals of the City, not cost effective and would reduce resources needed by the City.

Fred Hoskins, Antioch resident, spoke to an altercation he had at Qin's Bistro, and alleged police misconduct.

Darnell Turner, East County NAACP, stated there were segments of the community who do not have the full confidence of the Antioch Police Department and he felt their concerns needed to be heard. He noted the City needed to build relationships to improve the current conditions.

Willie Mims, Black Political Association, spoke in support of the City Council entertaining the idea of creating a Citizen Police Review Commission noting previous City Councils have not addressed the resident's allegations of police misconduct.

Allen Payton, Antioch resident, spoke in opposition to the formation of a Police Oversight Committee noting he felt it was unnecessary and would cost money the City does not have available; there were checks and balances in place to deal with those issues.

Devi Lanphere, Antioch Chamber of Commerce, announced the Business/Citizen of the Year Gala would be held in March or April and they had extended the deadline for nominations for Student, Citizen and Business of the Year to January 15, 2010. Contact information was provided.

Phyllis Lassiter-Loya, Antioch resident, and mother of fallen Officer Larry Lassiter, spoke in opposition to the formation of a Police Oversight Board and urged the community to support the Antioch Police Department.

Martin Fernandez, Antioch resident, spoke in opposition to the formation of a Police Oversight Committee noting staff and elected officials would be tasked with the job and any unresolved issues could be taken to the various other agencies, if necessary.

Mac McIlvenna, Antioch resident, spoke in opposition to the formation of a Police Oversight Committee noting it was unnecessary and would delay calls for service.

Marie Livingston, Antioch resident, spoke in opposition of the formation of the Police Oversight Committee and was in support of the Antioch Police Officers.

Jesse Zuniga, Antioch resident, spoke in opposition to the formation of a Police Oversight Committee which he felt were dysfunctional and would remove all authority from the Chief of Police and City Officials.

Mayor Davis read written comment from Antioch resident Donald Bright, in opposition to the formation of a Police Oversight Committee.

Mayor Davis read written comment from Antioch resident Carole Harrison urging the City Council to reject the proposal for a Police Oversight Commission.

COUNCIL RESPONSE TO PUBLIC COMMENTS

Councilmember Parsons announced the Holiday Fun Run would be held on December 13, 2009 and the Antioch Women's Club House Tour would be held on December 14, 2009. Contact information was provided.

MAYOR'S COMMENTS

Mayor Davis spoke to what a wonderful community Antioch was, encouraged everyone to volunteer whenever possible and wished everyone Happy Holidays.

Mayor Davis declared a recess at 8:45 P.M. The meeting reconvened at 9:04 P.M. with all Councilmembers present.

COUNCIL SUBCOMMITTEE REPORTS

Councilmember Parsons reported on her attendance at the Mello Roos meeting.

Councilmember Moore reported on his attendance at the Tri Delta Transit Authority meeting.

Mayor Davis reported on his attendance at the Pittsburg City Council meeting and congratulated Mayor Sal Evola.

5. COUNCIL CONSENT CALENDAR

A. APPROVAL OF COUNCIL MINUTES FOR NOVEMBER 10, 2009

B. APPROVAL OF COUNCIL WARRANTS

C. APPROVAL OF TREASURER'S REPORT FOR OCTOBER 2009

D. REJECTION OF CLAIMS — *Rejected*

- 1. Nakia Smith 09/10-1870 (unjust arrest)**
- 2. Clifford Henderson 09/10-1934 (vehicle damage)**
- 3. Shaunice Michelle Sumpter 09/10-1893 (personal injury)**
- 4. Lavern Baker 09/10-1923 (personal injury)**
- 5. Francisca Hernandez (09/10-1928) (vehicle damage)**

E. THIRD AMENDMENT TO THE CONSULTANT SERVICE AGREEMENT FOR PROFESSIONAL SERVICES WITH FLOW SCIENCE INCORPORATED

F. METRO PCS CELL SITE LEASE FOR CITY-OWNED PROPERTY AT EMPIRE MINE ROAD (APN: 075-122-019)

G. CONFIRMATION THAT EARTHQUAKE INSURANCE IS NOT VIABLE UNDER CURRENT ECONOMIC CONDITIONS

On motion by Councilmember Rocha, seconded by Councilmember Parsons, the Council unanimously approved the Council Consent Calendar

COUNCIL REGULAR AGENDA

6. APPOINTMENT TO ECONOMIC DEVELOPMENT COMMISSION (1 – FULL TERM)

Economic Development Analyst Nunnally presented the staff report dated December 2, 2009 recommending the City Council receive and file applications, the Mayor nominate and Council approve the appointment of a commissioner.

Mayor Davis nominated Juan Chen-Olsen to the Economic Development Commission.

Councilmember Moore suggested all future applicants for the Boards and Commission solicit input from the Councilmembers.

Councilmember Rocha voiced her supports for applicant Melvin Chappel.

Councilmember Moore agreed that Mr. Chappel was well qualified and he had shown a commitment to the community. He urged Mayor Davis to seriously consider appointing him in the future.

On motion by Councilmember Kalinowski, seconded by Councilmember Parsons, the City Council appointed Juan Chen-Olsen to the Economic Development Commission. The motion carried by the following vote:

Ayes: Davis, Kalinowski, Moore, Parsons

Noes: Rocha

Mr. Chappel expressed his disappointment in not being selected to serve on the Economic Development Commission and spoke to his qualifications. He noted he would no longer pursue appointment.

Councilmember Kalinowski stated he felt Ms. Chen-Olsen was qualified to be appointed on the Economic Development Commission.

Mayor Davis thanked all those who have applied and clarified his nomination was based on experience and qualifications. He apologized for not selecting Mr. Chappel and stated he hoped he participates in the future.

7. PRESENTATION BY ECONOMIC DEVELOPMENT COMMISSION OF ACCOMPLISHMENTS, GOAL AND OBJECTIVES

Members of the Economic Development Commission, Devi Lanphere, Bonni Bergstrom, Tina Sorensen, Juan Chen-Olsen, Jim Kyle and Jim Lanter introduced themselves and gave a brief presentation on the Economic Development Commission accomplishments, goals and objectives.

Councilmember Parsons thanked the Economic Development Commission members for their service.

Councilmember Rocha requested Mayor Davis consider sending a letter to realtors to inquire as to the lack of activity in downtown properties.

Mayor Davis thanked the Economic Development Commission for the presentation and noted they would be selecting one more Councilmember to serve on the subcommittee. He urged the Commission to focus on retention of the top 10-20 businesses ranked by employees and income generated.

Allen Payton, Antioch resident, suggested changing the name of "A" Street to Rivertown Drive and "L" Street to Marina Drive.

8. APPOINTMENTS TO THE ANTIOCH PLANNING COMMISSION (3 – FULL TERMS)

Mayor Davis thanked those who applied to serve on the Planning Commission and stated his nominees were based on experience and qualifications. He nominated Gil Azevedo for a Planning Commission vacancy.

On motion by Councilmember Kalinowski, seconded by Councilmember Parsons, the City Council appointed Gil Azevedo to the Planning Commission. The motion carried by the following vote:

Ayes: Davis, Kalinowski, Parsons

Noes: Rocha, Moore

Per inquiry by Nancy Fernandez, Councilmember Moore stated for the record it was against the law in the state of California to select an applicant based on sexual orientation, race, ethnicity or any other criteria in that area. He noted his selections were based on the application and qualifications. He noted it was best to hear directly from applicants on their positions related to planning, prior to the vote.

Mayor Davis nominated Greg Baatrup for the second Planning Commission vacancy. On motion by Councilmember Rocha, seconded by Councilmember Parsons, the City Council appointed Greg Baatrup to the Planning Commission. The motion carried by the following vote:

Ayes: Davis, Rocha, Parsons

Abstain: Kalinowski

Noes: Moore

Mayor Davis nominated Stanley Travers for the third Planning Commission vacancy. On motion by Councilmember Kalinowski, seconded by Councilmember Parsons, the City Council

appointed Stanley Travers to the Planning Commission. The motion carried by the following vote:

Ayes: Davis, Kalinowski, Parsons

Noes: Rocha, Moore

Councilmember Kalinowski clarified he abstained from the vote on Mr. Baatrup's nomination, noting he does not know him.

9. EAST BAY REGIONAL PARK DISTRICT "MEASURE WW" BOND PROJECT FUNDING

Project Manager Karste presented the staff report dated November 25, 2009 recommending the City Council 1) approve project listings for funding from the East Bay Regional Park District (Measure WW funds) spring 2010 grant cycle, 2) approve an increase to the 2010/11 Capital Improvement Fund in the amount of \$1,432,300 – funding source Measure WW; 3) approve CEQA project exceptions for the listed projects.

Allen Payton, Antioch resident, representing Antioch Turf and Track, discussed their efforts to get turf fields and all-weather track at James Donlon Park, Antioch High School and Deer Valley High School. He suggested the City Council consider allocating funds from 2011-2012 for turf fields.

Project Manager Karste reported the turf field at James Donlon Park was part of the funding package.

On motion by Councilmember Kalinowski, seconded by Councilmember Rocha the City Council unanimously 1) Approved project listings for funding from the East Bay Regional Park District (Measure WW funds) spring 2010 grant cycle, 2) Approved an increase to the 2010/11 Capital Improvement Fund in the amount of \$1,432,300 – funding source Measure WW; 3) Approved CEQA project exceptions for the listed projects.

10. RESIDENTIAL DEVELOPMENT ALLOCATION (RDA) ORDINANCE

Senior Planner Morris presented the staff report dated December 3, 2009 recommending the City Council provide direction to staff regarding the sunset of the Residential Development Allocation Ordinance and select an option to either extend the ordinance with or without changes or allow the ordinance to sunset and address Measure U in a different manner.

Councilmember Rocha stated she would like to see a more formal process for the allocation of the RDA funds.

Director of Community Development Wehrmeister stated staff was hoping to send an RFP in the near future to work with a consultant to identify developer impact fees that could be adopted with a nexus study to support them.

Allen Payton, Antioch resident, stated the ordinance needed to be more specific with development tied to specific improvements and a process for funding a priority list of projects. He stated if the \$600K remaining RDA funds were not dedicated, he requested they be utilized for track and turf fields at Antioch and Deer Valley High Schools. He also requested the fields be added to a future project list for RDA funding.

Councilmember Kalinowski voiced his support for a fee based on the legal nexus for projects direct impacts.

City Attorney Nerland clarified the action recommended by staff was a resolution of intention to amend the ordinance to come back to City Council for formal action.

Councilmember Moore stated he would need more information before he could consider annexing future development into CFD 2004-1; he would be looking for a creative solution to eliminate the flaws in the ordinance.

In response to Councilmember Moore, Director of Community Development Wehrmeister stated she would provide the fees associated with the Community Facilities District from the Antioch School District.

RESOLUTION NO. 2009/98

On motion by Councilmember Kalinowski, seconded by Councilmember Rocha, the City Council adopted the resolution to extend the ordinance with amendments. The motion carried by the following vote:

Ayes: Davis, Kalinowski, Rocha, Parsons

Noes: Moore

11. AGENCY CONSENT CALENDAR

A. APPROVAL OF AGENCY WARRANTS

On motion by Agency member Kalinowski, seconded by Agency Member Rocha, the Agency unanimously approved the Agency Warrants.

PUBLIC COMMENTS - None

STAFF COMMUNICATIONS

City Manager Jakel announced the next City Council meeting would be held on January 10, 2010 and City Offices would be closed from December 23, 2009 to January 3, 2010.

COUNCIL COMMUNICATIONS

Councilmember Parsons reported on her participation of distributing food at the Food Bank and she encouraged the community to make donations. Additionally, she attended the Antioch Football and Music Masters Crab Feed, participated in Congressman Garamendi's Town Hall

meeting, Holiday Delights parade, Dozier Libby Blood Drive and the flu vaccine clinic. She welcomed Sal Evola, the new Mayor of Pittsburg and congratulated outgoing Mayor Nancy Parent on a job well-done.

Councilmember Moore reported he attended Congressman Garamendi's Town Hall meeting and the Holiday Delights event.

Councilmember Rocha requested staff look into the lack of lighting for the park on Mahogany Way.

Councilmember Kalinowski wished everyone a happy holiday and safe New Year.

Mayor Davis announced a toy drive would be held on January 12, 2010 at Lumpy's Diner at Slatten Ranch. He announced the passing of city employee Christopher Alvarez and offered condolences to his family.

Councilmember Rocha announced Granny Anonymous would be giving out gifts to children on Saturday. She reported anyone in need of services in Contra Costa County could contact 211 for available resources.

With no further business, Mayor Davis adjourned the meeting in memory of Chris Alvarez, Facilities Maintenance Supervisor/GIS Coordinator at 10:23 P.M. to the next regular Council meeting on January 12, 2010.

Respectfully Submitted:

L. Jolene Martin, CMC

L. JOLENE MARTIN, CMC
City Clerk