



# ANNOTATED AGENDA

**REGULAR JOINT MEETING OF THE  
CONCORD CITY COUNCIL/  
REDEVELOPMENT AGENCY**

**Tuesday, July 27, 2010  
6:30 p.m. - Regular Joint Meeting  
City Council Chamber  
1950 Parkside Drive, Concord, CA**

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**CLOSED SESSION**

**5:30 p.m. – City Council Conference Room**

**I. ROLL CALL – All present.**

**II. PUBLIC ANNOUNCEMENT (Open Session)**

**III. PUBLIC COMMENT (Open Session) - None**

**IV. CLOSED SESSION:**

- a. Conference with Legal Counsel pursuant to Government Code Section 54956.9(a)  
– existing litigation entitled:

*Shaun Waterhouse v. City of Concord, et al.*  
Contra Costa County Superior Court Case No. C09-01443

- b. Conference with Legal Counsel pursuant to Government Code Section 54956.9(a)  
– existing litigation entitled:

*Lisa Capocci v. City of Concord, et al.*  
Contra Costa County Superior Court Case No. C09-02137

- c. Conference with Legal Counsel pursuant to Government Code Section 54956.9(a)  
– existing litigation entitled:

*Robin Heinemann v. City of Concord, et al.*  
Contra Costa County Superior Court Case No. C09-03383

- d. Conference with Legal Counsel pursuant to Government Code Section 54956.9(a)  
– existing litigation entitled:

*Timothy Runyon v. City of Concord*  
Contra Costa County Superior Court Case No. C10-00887

**ACTION: Closed Session held.**

- V. ADJOURNMENT – at 6:00 p.m. to reconvene in regular session in the Council Chamber at 6:30 p.m.**
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**REGULAR MEETING  
6:30 p.m. – Council Chamber**

**ROLL CALL – All present.**

**PLEDGE TO THE FLAG – Councilmember Shinn**

**PUBLIC COMMENT PERIOD**

Rick Waterhouse, Coach with the Concord Terrapins, announced that the 2010 Far Western Swim Meet was being held this week and that over 1280 swimmers coming from Canada, Mexico, California and six other states would be competing at Concord Community Pool.

Paul Choisser, Concord, emphasized that it was the 20<sup>th</sup> Anniversary of the passing of the Americans with Disabilities Act (ADA) and asked that all the departments in the City be more sensitive to ADA issues.

David Molstad, Concord, shared his opinions about the community, the Council and the proposed tax measure.

Paul Poston, Concord, referred to the early closure of the Police Department, and stated that because of it, the Neighborhood Partnership groups who presently use the community room needed to find another location to meet.

Paul Lopez, Concord, referenced Item No. 3.i regarding Pop's Bingo World, and formally requested a continuance.

1. **PRESENTATION**

- a. **Presentations** – by Dirk and Nancy Wentling, Co-Chairs of the 4<sup>th</sup> of July Parade Committee, to the three 4<sup>th</sup> of July Parade Entry winners; Concord Kung Fu Academy, Los Costenos de Brentwood, and Bay Point All Stars. **Introduction by Mayor Bjerke.**

**ACTION: Mayor Bjerke introduced Dirk and Nancy Wentling who made presentations to the winners.**

- b. **Presentation** – by Dirk and Nancy Wentling, Chairs of the Parade Committee, to Ken Dami, Government Affairs official for Tesoro, for the generous contribution Tesoro made toward the success of the 4<sup>th</sup> of July Downtown Parade and Festivities.

**ACTION: Presentation was made to Bill Bodnar, California VP of Refining for Tesoro, who introduced the staff who coordinated the project for Tesoro.**

2. **ANNOUNCEMENTS**

Florence Weiss, Downtown Program Manager, thanked Dirk and Nancy Wentling for the work they did in coordinating the largest 4<sup>th</sup> of July Parade in recent years.

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**CITY COUNCIL  
MATTERS**

3. **CITY COUNCIL CONSENT ITEMS:**

**MAYOR: "The next item is the City Council Consent Calendar which is considered in a single motion. If any member of the Council or the public wishes to remove any item from the Consent Calendar, please indicate now; otherwise I will consider a motion for approval."**

**Staff Recommendation: Adopt the Consent Calendar as recommended.**

- a. **Approval of minutes** – for the meeting held July 13, 2010. Recommended by City Clerk.

**ACTION: Minutes approved.**

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- b. **Adoption of Ordinance No. 10-2** – a City-initiated amendment to the Concord Municipal Code, amending Chapter 2, Article V, and Chapter 122, Article II, Division 4 by (a) increasing the terms of members serving the Board of Appeals; Parks, Recreation, and Open Space Commission; Commission on Aging; Community Services Commission; Design Review Board; Personnel Board; and Planning Commission to four years, (b) relocating the ordinance governing the Design Review Board to the Concord Municipal Code Article and Chapter in which all other boards, commissions, and committees are established, and (c) reflecting the dissolution of the Human Relations Commission. Ordinance No. 10-2 was introduced on April 13, 2010. Recommended by City Clerk.

**ACTION: Ordinance No. 10-2 adopted.**

- c. **Approving** – a two-year Lease Agreement with the Concord Police Association for use of facilities located at 5060 Avila Road in Concord for a total two-year cost of \$48,030; and authorize the City Manager to sign the agreement. Recommended by Chief of Police.

**ACTION: Two-year Lease Agreement approved; City Manager authorized to execute it.**

- d. **Approving** – a Professional Services Agreement with Russ Moore of Harris & Associates in an amount not to exceed \$95,000 to act as Interim Maintenance Director; and authorize the City Manager to execute the agreement. Recommended by Acting City Engineer.

**ACTION: Agreement approved; City Manager authorized to execute it.**

- e. **Awarding** – a construction contract in the amount of \$42,367 to Sheldrake & Mumford, Inc. of Livermore, CA, for Project No. 2147, Tennis Courts Resurfacing and waive a minor bid defect. Recommended by Acting City Engineer.

**ACTION: Contract awarded waiving a minor bid defect.**

- f. **Approving** – a Professional Services Agreement with Associated Right of Way Services of Pleasant Hill, CA, for Project No. 1761, Commerce Avenue Roadway Extension and Bridge at Pine Creek in the not-to-exceed amount of \$101,000; and authorize the City Manager to execute the Agreement. Recommended by Acting City Engineer.

**ACTION: Agreement approved; City Manager authorized to execute it.**

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- g. **Authorizing** – the City Manager to award and execute a construction contract for Project No. 2052, Concord Boulevard Gap Closure – Phase II to meet the Caltrans requirement to award the construction contract within 30 days of the bid opening. Resolution No. 10-68 for adoption. Recommended by Acting City Engineer.

**ACTION: Resolution No. 10-68 adopted; City Manager authorized to award and execute a contract for Project No. 2052 within 30 days of bid opening.**

- h. **Approving** – the acceptance of grant monies in the amount of \$258,213 from the State of California Office of Traffic Safety and appropriating the funds for use in the City’s Driving Under the Influence (DUI) awareness and enforcement program. Resolution No. 10-70 for adoption. Recommended by Chief of Police.

**ACTION: Resolution No. 10-70 adopted.**

- i. **Confirming** – the action of granting an appeal and denying without prejudice the Administrative Application for Pop’s Bingo World (AA 10-010). Resolution No. 10-71 for adoption. Recommended by City Council.

**ACTION: This matter was continued at the request of the applicant to the regular joint meeting scheduled for September 14, 2010 at which time the applicant's request for reconsideration will also be considered.**

- j. **Approving** – the creation of the Facilities Maintenance Technician job classification, pay grade 008, Field and Operations bargaining unit. Resolution No. 10-3493.1 for adoption. Recommended by Director of Human Resources.

**ACTION: Resolution No. 10-3493.1 was adopted.**

- k. **Matters to set for Public Hearing** on September 14, 2010, at 6:30 p.m. in the Council Chamber:

- 1) Consideration of an amendment of the Concord Municipal Code, Section 110-42, Wastewater Pretreatment, to correct several discrepancies between the code and current practices, and between code and Contra Costa Central Sanitary District (CCCSA) ordinances used for pretreatment inspections.

**ACTION: Matter was set for public hearing on September 14, 2010 at 6:30 p.m. in the Council Chamber.**

- k. **Matters to set for Public Hearing** on September 14, 2010, at 6:30 p.m. in the Council Chamber:(Cont'd)

- 2) Consideration of an appeal submitted by Wieslaw J. Pisula over the Concord Police Department's denial of an application for a Taxi Driver Permit.

**ACTION: Matter was set for public hearing on September 14, 2010 at 6:30 p.m. in the Council Chamber.**

- 3) Consideration of an amendment of the City's contract with the Board of Administration of the California Public Employees Retirement System to add Section 20475, creating a new tier in the retirement program for Miscellaneous New Hire Employees Only with a 2% @ 55 formula and introduce Ordinance 10-4 (Uncodified) authorizing the amendment.

**ACTION: Matter was set for public hearing on September 14, 2010 at 6:30 p.m. in the Council Chamber.**

- l. **Authorizing** – the continued month-to-month expenditure for Professional Legislative Services provided by Joe A. Gonsalves & Son for Fiscal Year 2010-11 at a cost of \$3,000 per month. Recommended by Assistant City Manager.

**ACTION: Expenditure authorized.**

- m. **Matter to set for public hearing** – on Tuesday, September 28, 2010 at 6:30 p.m. in the Council Chamber to consider a proposed General Plan Amendment to update the City's Housing Element which includes a revised statement of goals, policies, quantified objectives, land inventory, and a schedule of programs for the preservation, improvement and development of housing on a Citywide basis. Recommended by Principal Planner.

**ACTION: Matter was set for public hearing on September 28, 2010 at 6:30 p.m. in the Council Chamber.**

4. **CITY COUNCIL CONSIDERATION ITEM:**

- a. **Consideration** - of 1) Alternatives for addressing the City's remaining \$5 million budget deficit, and 2) Resolution No. 10-72 calling an election in November 2010 on a proposed ballot measure seeking voter approval of an ordinance establishing a transactions and use tax in the amount of one-half percent (0.5%) for a period of five years. Resolution No. 10-72 for adoption. **Report by City Manager Dan Keen.**

**ACTION: Report heard, public testimony taken, and Resolution No. 10-72 adopted calling for an election on a proposed one-half cent transactions and use tax ballot measure for November 2, 2010.**

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5. (Added) **CITY COUNCIL SITTING AS THE LOCAL REUSE AUTHORITY CONSENT ITEMS:**

- a. **Approving** – the application for grant funds for the Sustainable Communities Planning Grant and Incentive Program under the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006. Local Reuse Authority Resolution No. 10-11 for adoption. Recommended by Reuse Project Director.

**ACTION: Resolution No. 10-11 adopted.**

6. **CORRESPONDENCE** – City Council correspondence not selectively included in the following list is available for inspection during normal business hours by contacting the City Clerk at 671-3495.

- a. Amended Page 11 of the July 13, 2010 Draft Minutes, reference Item No. 3.a.
- b. E-mail dated July 26, 2010 from Kypros G. Hostetter forwarding a letter also dated July 26, 2010 from Attorney William D. Ross regarding a Request for Reconsideration, reference Item No. 3.i.
- c. Facsimile from Andersen, Bonnifield & Roscha to City Manager Dan Keen dated July 19, 2010, reference Item No. 3.i.
- d. Names and phone numbers of 2 persons who called the City in support of the Blue Devils, reference Item No. 3.i.

- e. 20 pieces of correspondence concerning the approval of Pop's Bingo World, reference Item No. 3.i.
- f. Letter dated July 26, 2010, from Attorney William D. Ross advising that they would be representing Enea Court Properties, reference Item No. 3.i.
- g. Letter dated July 27, 2010, from Attorney William D. Ross requesting a continuance of Item No. 3.i.
- h. Letter dated July 27, 2010, from Attorney Craig Andersen of Anderson, Bonnifield & Roscha responding to William D. Ross' letter of July 26, 2010, reference Item No. 3.i.
- i. E-mail from Richard T. Loewke to Katherine Wisinski dated July 27, 2010 correcting a typo in earlier correspondence, reference Item No. 3.i.
- j. E-mail from Richard T. Loewke to Mary Rae Lehman dated July 27, 2010, forwarding a letter and attachments addressed to the Concord City Council, reference Item No. 3.i.
- k. Letter dated July 24, 2010 from Don Mount to Mayor Guy Bjerke and City Council in support of a ballot measure, reference Item No. 4.a.
- l. Letter dated July 21, 2010 from Richard S. Colman to Mayor and Council objecting to a ballot measure, reference Item No. 4.a.
- m. E-mail dated July 23, 2010 from Tom Delaney to Concord City Council objecting to a ballot measure, reference Item No. 4.a.
- n. Letter from Joseph Kelly dated July 6, 2010 objecting to a ballot measure, reference Item No. 4.a.
- o. E-mail dated July 24, 2010 from Kandi Lancaster stating her support of a tax increase, reference Item No. 4.a.
- p. E-mail dated July 26, 2010 from Robert Shuey stating support for a tax measure, reference Item No. 4.a.
- q. E-mail dated July 23, 2010 from Michael Middleton objecting to a ballot measure, reference Item No. 4.a.

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- r. E-mail from David Molstad dated July 27, 2010, objecting to a ballot measure, reference Item No. 4.a.
  - s. Memorandum from City Manager Dan Keen to Mayor and Council dated July 27, 2010 responding to questions raised by Councilmember Hoffmeister, reference Item No. 4.a.
  - t. Revised Resolution No. 10-71, reference Item 3.i.

## 7. **CLOSED SESSION REPORTS**

City Attorney Craig Labadie reported that the City Council had met in closed session before the evening's public meeting to discuss the pending litigation entitled: *Shawn Waterhouse v. City of Concord*. He advised that this was a personal injury case arising out of a serious automobile accident which occurred at the intersection of Bailey Road and Concord Blvd. and stated that the City Council unanimously approved a settlement in the amount of \$320,000.

## 8. **COUNCIL AND STAFF REPORTS**

## 9. **ADJOURNMENT – at 9:10 p.m.**

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### NOTICE

There is a 90-day limit for the filing of a challenge in the Superior Court to certain City administrative decisions and orders which require a hearing by law, the receipt of evidence, and the exercise of discretion. The 90-day limit begins on the date the decision is final (Code of Civil Procedure Section 1094.6). Further, if you challenge an action taken by the City Council in court, you may be limited, by California law, including but not limited to Government Code Section 65009, to raising only those issues you or someone else raised in the public hearing, or in written correspondence delivered to the City Council prior to or at the public hearing. The City Council may be requested to reconsider a decision if the request is made prior to the next City Council meeting, regardless of whether it is a regular or special meeting (Policy and Procedure No. 2, Section 4.24). For information on the next regular or special City Council meeting, please call (925) 671-3495.

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**NEXT REGULAR CITY COUNCIL MEETING: 6:30 p.m., Tuesday, September 14, 2010**

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### MEETING RECORDS

Audio cassette tapes and videotapes of most City Council meetings are available for listening or viewing at the City Clerk's office. Copies of the videotapes may be purchased. Contact the Community Relations Manager at (925) 671-3272 for further information.