CITY COUNCIL MINUTES
November 8, 2010
REGULAR SESSION

The Regular Session of the Auburn City Council was held in the Council Chambers, City Hall, 1225 Lincoln Way, Auburn, California on Monday, November 8, 2010 at 6:00 p.m. with Mayor Powers presiding and City Clerk Joseph G.R. Labrie recording the minutes.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL:

Council Members Present: J. M. Holmes, Bill Kirby, Keith Nesbitt, Bridget Powers

Council Members Absent: Kevin Hanley

Staff Members Present: City Manager Robert Richardson, City Attorney Michael Colantuono, Community Development Director Will Wong, Fire Chief Mark D'Ambrogi, Public Works Director Bernie Schroeder, Transit Analyst Megan Siren, Administrative Services Director Andy Heath, Police Chief Valerie Harris, Police Captain John Ruffcorn, Building Official Lisa Hoffrogge, Public Works Engineer Carie Huff and Associate Planner Lance Lowe.

AGENDA APPROVAL

The agenda was approved as presented by consensus of the Council.

CONSENT CALENDAR

Joseph Tucciarone, resident of Auburn, requested item 2 be removed from the consent calendar.

1. **Agreement with Placer County to Pass FTA Funds to the City of Auburn**

   By **RESOLUTION 10-130**, authorize the Mayor and the Director of Public Works to execute on behalf of the City of Auburn the Agreement Regarding Pass Through of Federal Transit Administration (FTA) Funding from Placer County to the City of Auburn.

2. **Citizens Bank of Northern California Land Purchase – Elm Avenue at McKenzie Court**

Moved to item 2a.

********** End of Consent Calendar **********

By MOTION, approve the consent calendar excluding item 2.
MOTION: Nesbitt/ Holmes/ Approved 4:0 (Hanley absent)

2a. **Citizens Bank of Northern California Land Purchase – Elm Avenue at McKenzie Court**

Joseph Tucciarone, resident of Auburn, asked about the value provided for the property based on a single appraisal.

Director of Community Development Will Wong explained that this value is based on an appraisal completed in 2006. He said the bank can choose to have the property reappraised.

City Attorney Michael Colantuono said the purpose of this item is to delegate to the City Manager the authority to negotiate and conclude the transaction at the existing appraised price; if a new appraisal is completed, the Council can give the City Manager authority to approve sale at a price above a certain limit or ask for the item to be brought back before Council.

Council Member Nesbitt said anything that can be done to expedite the process to make further improvements on this vacant property should be considered. He suggested this item be approved taking into consideration the possible lower market value.

Council Member Kirby said he is concerned with setting an amount for approval in terms of negotiation.

Council Member Nesbitt moved:

A. By **RESOLUTION 10-131**, abandon right-of-way along Elm Avenue at McKenzie Court.

B. By **RESOLUTION 10-132**, designate City right-of-way along Elm Avenue at McKenzie Court into "Category 2 Developable City Properties" and determine that it would be in the best interest of the City and foster appropriate private development to sell the parcel without providing a noticed opportunity to bid on the property.

C. By **RESOLUTION 10-133**, authorize the City Manager, after notice to agencies per Government Code Section 54220 et seq. of the opportunity to purchase the land, to finalize the sale of the right-of-way to Citizens Bank of Northern California per the appraised price, and prepare all necessary documents which includes the merging into one parcel of the City right-of-way and the Elm Plaza project. All costs required to complete this transaction will be the responsibility of the applicant. If an agency requests to purchase the land, the City Manager is authorized to lease the property to Citizens Bank of Northern California.

D. By **MOTION**, authorize the City Manager to execute a sales agreement at a newly appraised value determined by an appraiser of the City's choosing or at the value stated in the 2006 appraisal.

MOTION: Nesbitt/ Holmes/ Approved 4:0 (Hanley absent)

3. **Public Comment**

Council Member Holmes said with Colfax High's Football Team winning this year, the trophy that has been in Auburn's possession must be returned to Colfax, which he will be delivering in the next month.

Council Member Nesbitt said the Placer Law Enforcement Awards held last week was inspirational and an honor to attend. He also commended Public Works Director Bernie Schroeder and the Public Works Department on the etching of the Pledge of Allegiance at the base of the flag in Central Square.

Council Member Kirby thanked the Council for their work while he was out recovering from back surgery. He also congratulated the members of the Council who were recently re-elected.

Mayor Powers said the event held at Grocery Outlet in Auburn, "Operation Mom," to send care packages to the military troops away from home, was a huge success.

PUBLIC HEARING

4. **Adopting the California Building Standards Codes**

Fire Chief Mark D'Ambrogi and Building Official Lisa Hoffrogge presented this item (all available in staff report).

Council Member Holmes asked about the effect of these codes on different types of construction.

Lisa Hoffrogge explained that the sprinkler system requirement is for new single family dwelling and duplexes. She said there is a provision in the code that would require carbon monoxide detectors during a small addition/remodel valued over $1,000.

Council Member Nesbitt asked about paint being considered a hazardous product and if storage would be limited for a commercial business. He also asked about vehicle emergency access addressed in the code.

Council Member Kirby asked about the effect of these codes on charter cities.

City Attorney Michael Colantuono said the effect is the same on charter cities as on general law cities.

Hold a Public Hearing and introduce for a first reading by title only, an ordinance to adopt: the 2010 edition of the California Building Standards Codes and making necessary amendments thereto and by adopting the 1997 edition Uniform Code for the Abatement of Dangerous Buildings, the 2009 International Existing Building Code, and the 2009 International Property Maintenance Code.
MOTION: Holmes/ Nesbitt/ Approved 4:0 (Hanley absent)

5. **Fire Department Fee Schedules**

Fire Chief Mark D'Ambrogi presented this item. He said the fees are based on actual direct costs associated with the services provided.

Council Member questions followed regarding services performed, how the time needed for each service was determined and comparison of current fee schedule.

Hold a public hearing and by Resolution 10-134, approve the Fire Department Fee Schedule: Fire Prevention Related Services and Fire Department Service Fee Schedule.
MOTION: Holmes/ Kirby/ Approved 4:0 (Hanley absent)

6. **A Public Hearing to Consider an Appeal of the Planning Commission's Approval of a Height Variance Extension for a 78-foot Monopine Cellular Tower located at 169 Borland Avenue in the Industrial (M-2) Zone (Attachments 1 – 6) – File # VA 09-4**

Associate Planner Lance Lowe presented this item (presentation available in staff report). He said staff is recommending:
By Resolution (Exhibit A) deny the appeal, thereby affirming the Planning Commission's approval of the Borland Avenue Monopine Variance (File No. 09-4) as presented, or as modified by the City Council, which includes the following actions:

1. Adoption of a Negative Declaration, prepared for the Height Variance (VA 09-4) as the appropriate level of environmental review in accordance with the California Environmental Quality Act (CEQA) and Guidelines;
2. Adoption of Findings of Fact for approval of the Height Variance as presented in the Council Report; and,
3. Approval of the Height Variance in accordance with the Conditions of Approval, as amended by the Planning Commission, and presented in the Council Report.

Council Member questions followed regarding: (1) 3 evaluated sites, (2) geotech report, (3) elevations between neighboring properties, (4) conditions around leased area, (5) coverage provided by this tower's "search ring," and (6) radio frequency requirements.

Council recessed for 5 minutes

Jacob Reeves, representing AT&T and a consultant with the Lyle Company, introduced himself as the project proponent. He said the search ring includes Downtown Auburn, over to I-80 and in the canyon. He explained how and why this location was chosen for the cellular tower. He explained why the project was not completed during the original 6-month permit approved February 2, 2010.

Council Member questions directed to Jacob Reeves followed: (1) compounding effects of emissions from multiple antennae, (2) FCC standards, (3) sewer line on property, and (4) visual impact.

Dane Erickson, Electrical Engineer addressed some of these questions.

Council Member questions followed regarding: (1) last time FCC health standards for radio frequency emissions were updated, (2) additional

carriers being added to tower, and (3) City Council approval for additional carriers.

O.C. Taylor, resident of Auburn and appellant on this item, spoke of his opposition of the tower.

Public comment spoke in opposition of the tower:

Gordon Ainsleigh of Meadow Vista; Danusia Szumowski of Auburn; Larry Skidmore of Aronowitz & Skidmore Law Offices in Auburn on behalf of Ms. Szumowski and Mr. Taylor; George Harrison of Auburn; Richard Sanborn of Auburn; Gary Clark of Auburn, Laurie Whitton, a real estate agent and resident of Auburn; and David Harrison of Auburn,

There was no public comment in favor of building the tower.

Jacob Reeves addressed questions brought up in public comment: (1) he stated the distance from the pole to the property line is 67 feet, 5 inches, (2) he spoke about mobile business owners and the need for cell reception, (3) he said the notice of the cell tower was what City's code requires, (4) he said the tower is solely to meet the demand of customers, (5) he stated the area is a M2 Industrial Zone, (6) he covered the types of reports and studies generated, (7) he said a soil sample was completed and the tower will be designed to meet the soil capabilities, (8) he said there is no way to study the sound the tower will create in high winds, (9) he said the pole was delivered after the tower was approved initially but was not stored on the site, (10) he said the claimed decline in property values is speculative, (11) he talked about the potential to lower the height of the tower to 65 feet, (12) he explained that there is essentially no risk that the pole would fall towards O.C. Taylor's property, (13) he said the project site can not be seen from O.C. Taylor's property due to brushes and trees, (14) he said the mono-pine they are using has very life-like branches and characteristics.

Barbara Winn, representative from AT&T, spoke of the need for better coverage and emphasized the desire to continue working with and for the community.

Jacob Reeves explained why the Verizon tower site is not an option.

Council Member comments followed: (1) new proposal from AT&T to decrease size of tower, (2) concern for decreased property values, (3) resident concerns regarding health risk factors which federal law does not permit the City to take into consideration, (4) adequacy of public notice, (5) community concern, (6) noticing for projects in industrial areas, (7) other towers in the area, (8) height variance requirements, and

(9) continuance to allow further discussions between the applicant and the neighbors and to allow Councilmember Hanley to participate.

City Attorney Michael Colantuono provided an overview of the legal standards applicable to this item and the decisions that the City Council needs to make and the direct implications of those decisions.

By MOTION, continue this item to the November 22, 2010 City Council meeting.
MOTION: Nesbitt/ Kirby/ Approved 4:0 (Hanley absent)

REPORTS

7. **Informational Report; Panhandling Progress Report**

Chief of Police Valerie Harris presented this item. She explained that panhandling has become a problem in the area over the past several years. She said Savemart shopping area in particular has been impacted. She said a meeting was held in July in conjunction with Placer County and Savemart Management to come up with a solution. She said due to an ordinance in Roseville against panhandling, many panhandlers have come up to the Auburn / Placer County area. She said she is drafting an ordinance for Auburn that would help the Department ensure the public's safety. She said Placer County is also going to support a similar ordinance. She said this is not just another enforcement act and that it will be pushed out with an educational approach and working with non-governmental service providers to provides services for people in need.

Council Member comments followed showing support of an ordinance to control panhandling in the area and urging staff to move forward on preparing the ordinance.

8. **City Council Committee Reports**

Council Member Nesbitt reported that the Capitol Corridor Joint Powers Authority was unsuccessful in getting expected funding. He said this could affect the train to Auburn.

Council Member Kirby reported on recent regional sewer discussions regarding cost of the sewer line. He also reported that a local developer is very pleased with his dealings with the Building Department in the City of Auburn.

Council Member Holmes reported that the Placer County Air Pollution Control District Board is nearing completion of an agreement to buy the property at 110 Maple Street for a new operations location. He also

reported the Old Town Business Association is working on getting the Old Firehouse stabilized and repaired.

COUNCIL BUSINESS

9. **Technology Commission**

City Manager Bob Richardson presented this item. He said due to changing laws, the Telecommunications Commission is underutilized. He said the Telecommunications Commission got together and created the Technology Commission to better assist the City.

Glen Tonkin, current member of the Telecommunication Committee explained how the commission is going to transform to help move the City forward with technology.

Council Member comments followed regarding support of the transformation of this commission.

By **RESOLUTION 10-135**, approve the new direction and operating procedures for the Technology Commission.
MOTION: Nesbitt/ Holmes/ Approved 4:0 (Hanley absent)

10. **Appointments to Various Commissions/ Committees**

City Manager Bob Richardson presented this item.

Council Member Nesbitt asked about the vacant position on the Economic Development Commission. He also confirmed that the Arts Commission is now fully staffed.

Council Member Holmes recognized Loreley Hodkin for her work as Auburn Historian and welcomed April Loomis-McDonald as the new historian.

By **MOTION**, approve the appointments as listed in "Exhibit A" to the Economic Development Commission, Endurance Capital Committee, Arts Commission and City Historian Position(s).
MOTION: Nesbitt/ Holmes/ Approved 4:0 (Hanley absent)

ADJOURNMENT

Mayor Powers adjourned the meeting, without objection, at 9:25 p.m.

Bridget Powers, Mayor

Joseph G. R. Labrie, City Clerk