

**CITY COUNCIL MINUTES**  
**May 24, 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, May 24, 2010 at 6:00 p.m. with Mayor Powers presiding and City Clerk Joseph G.R. Labrie recording the minutes.

**CALL TO ORDER**

**ROLL CALL:**

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

**Council Members Absent:** None

**Staff Members Present:** City Manager Robert Richardson, City Attorney Michael Colantuono, Community Development Director Will Wong, Assoc. Planner Lance Lowe, Fire Chief Mark D'Ambrogi, Engineering Division Manager Bernie Schroeder, Transit Analyst Megan Siren, Administrative Services Director Andy Heath, Police Chief Valerie Harris, Police Captain John Ruffcorn, and Code Enforcement Jennifer Solomon.

By **MOTION** adjourn to a Closed Session under Government Code Section 54957:6

**MOTION: Holmes/ Nesbitt/ Approved unanimously by voice**

(1) **Initiation of Litigation:** Two Potential Cases  
G.C. 54956.9(c)

(2) **Conference with Labor Negotiators**  
G.C. 54957.6

Agency Designated Representatives: Robert Richardson, David Mackowiak

Employee Group: All Bargaining Units

**REPORT OUT OF CLOSED SESSION**

No reportable action

**PLEDGE OF ALLEGIANCE**

**AGENDA APPROVAL**

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

**CONSENT CALENDAR**

Council Member Holmes requested to remove item #2 and item #6 from the consent calendar.

1. **Minutes**

By **MOTION** approve City Council Minutes of 04/26/2010

2. **Palm Avenue Sidewalk and Bicycle Lane Project – Consultant Agreement**

See 2a.

3. **Assignment of Auburn Airport Industrial Park Ground Lease from Savoir Vivre, Inc. to Jim Tryon**

By **RESOLUTION 10-47**, authorize the City Manager or his designee to:

- a. Approve the assignment and assumption of the land lease between the City of Auburn, Savoir Vivre, Inc., and Jim Tryon; and;
- b. Approve the recording by the Placer County Recorder's Office, a Memoranda of Lease for Savoir Vivre, Inc.

4. **Minor Amendment of Streetscape Phase 1 – Outdoor Seating/ Encroachment Permit Guidelines**

By **RESOLUTION 10-48**, amend the Outdoor Seating/ Encroachment Permit Design Guidelines as presented, or as modified by the City Council, which includes the following actions:

- 1. Adoption of a Categorical Exemption, prepared for amendment of the Outdoor Seating/Encroachment Permit Guidelines, as the appropriate level of environmental review in accordance with the California Environmental Quality Act (CEQA) and Guidelines; and,
- 2. Amendment of the Outdoor Seating/Encroachment Permit Guidelines as presented in the Council Report.

5. **Amended Professional Services Agreement for Baltimore Ravine Specific Plan – Adrienne Graham**

By **RESOLUTION 10-49**, authorize the Community Development Director to execute an amended agreement for consulting services between the City of Auburn and Adrienne Graham to assist the City in its review and preparation of the Baltimore Ravine Specific Plan and the Baltimore Ravine Environmental Impact Report.

6. **Ordinance Amending the Auburn Municipal Code; Section 100.87 of Chapter 100 of Title IX; Fuel Modification Standards, Requirements**

See 6a.

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

By **MOTION**, approve consent calendar with the exception of item #2 and item #6.

**MOTION: Nesbitt/ Hanley/ Approved 5:0**

2a. **Palm Avenue Sidewalk and Bicycle Lane Project – Consultant Agreement** (Formerly item #2 on consent)

Council Member Holmes inquired about the firm that was selected for this project.

Bernie Schroeder confirmed that this is a local company.

By **RESOLUTION 10-46**, authorize the Director of Public Works to execute a consultant agreement with Coastland for preliminary engineering design services for Phase I of the Palm Avenue Sidewalk and Bicycle Lane Project subject to approval of form by the City Attorney in an amount not to exceed \$49,452.

**MOTION: Holmes/ Hanley/ Approved 5:0**

6a. **Ordinance Amending the Auburn Municipal Code; Section 100.87 of Chapter 100 of Title IX; Fuel Modification Standards, Requirements** (Formally item #6 on consent)

Council Member Holmes opened this item for discussion because he believes there are further questions on the item from the public.

Dave Johnson of Colfax, representing the Board of Realtors, asked about arbitration procedures.

Dan Sokol of Deerwood Place, Auburn, said this is a property rights issue and expressed his opposition to this ordinance.

Council Member Nesbitt said he is concerned about the property rights issue and he would like to see a report from the Fire Chief 12 months from today detailing how many times this ordinance had to be invoked.

Council Member Hanley this ordinance will ultimately lower the danger during fire season. He said in this process there are "multiple levels of judgment to take this step." He said he agrees with having a report of how the ordinance is being used in 1 year.

Conduct a second reading by title only and adopt an **ORDINANCE 10-03** to amend the Auburn Municipal Code Section 100.87 of Chapter 100 of Title IX; Reduction of Fire Hazard/Defensible Space.

**MOTION: Holmes/ Hanley/ Approved 5:0**

7. **Public Comment**

Council Member Kirby thanked Council Member Hanley for his efforts on Project Canyon Safe.

Council Member Kirby apologized to the members of the Planning Commission for comments made at the last meeting regarding a parking lot decision.

Council Member Hanley expressed his gratitude for all those who participated in Project Canyon Safe last weekend. He said 9 acres were cleared during this project.

Council Member Holmes congratulated the Public Works Department for the successful Healthy Waters Event that took place Friday for Auburn's youth.

Council Member Holmes said that the Auburn Chamber of Commerce is conducting a workshop on the ADA (Americans with Disability Act) on June 4<sup>th</sup>, 2010.

Council Member Holmes said on Memorial Day there will be multiple ceremonies at the local cemeteries to honor those who have sacrificed for our country.

Council Member Nesbitt congratulated everyone involved in the Amgen Tour. He thanked the Antiques Fair organizers for postponing the event for one week to accommodate the Amgen Tour.

## PUBLIC HEARING

8. **A Public Hearing to Consider Amendments to Chapter 97 of the Auburn Municipal Code Relating to Animals, Including Specific Provisions For the Spay, Neuter and Breeding of Pit Bull Dogs**

Will Wong, Director of Community Development, introduced the item.

Lance Lowe, Assoc. Planner in Community Development Department reviewed the background of this item as it is outlined in the staff report. He defined the draft amendments of the Animal Regulation Ordinance. He reviewed the updated Animal Fee Schedule.

Council Member questions followed regarding: (1) parolees and convicts owning dangerous animals, (2) defining "dangerous animals", (3) limits for current households with more than 2 dogs, (4) enforcement, (5) updates in ordinance to standards of other Cities, (6) judicial review provisions, (7) definition of pit bull, (8) animal licensing renewal, (9) Placer County's limit on the number of dogs per parcel, (10) exceptions to allow fostering dogs temporarily, and (11) reporting for breed-specific legislation.

Public comment opposing the revisions to the ordinance: Georgiana Lohman of Auburn; Dawn Capp of Sacramento representing CHAKO Pit Bull Rescue; Bill Hemby of Grass Valley representing Pet PAC; Jim Landrith of Auburn; Randy Robinson, a practicing veterinarian of Placerville; Lorelei Craig of Penn Valley; Dina Savoroski of Placerville; Cynthia Long of Placerville; Pat Daniels, grooming business owner in Auburn; Roland Cristo of Auburn; Pamela Gorman of Grass Valley; Lynn Howe of Loomis; Suzie Bayne of Colfax; Wendy Dapore of Auburn / Placer Co.; Margaret Weatherson of Roseville representing Northern CA American Pit Bull Terrier Club; Jessica Macpherson of Orangevale; Jeri Reinhardt of Auburn; Beth Mirsky of Auburn; Rosemary Frieborn with Friends of Placer Co Animal Shelter and resident of Newcastle; Vicki Meyer of Auburn; Colt Ross of Ukiah; Diane Jackson of Foresthill; Jason Tingle of Auburn / Placer Co.; Keith Ulisse of Auburn / Placer Co.; Mary Louie of Newcastle; and Alexa DalPino of Lincoln.

Public comment in support of the revisions: Frank Ford of Auburn.

\*\*\*Council took a 5-minute recess\*\*\*

Mayor Powers suggested the Council structure the conversation based on each option to revise ordinance.

Council Member Holmes asked if staff have looked into additional liability insurance for certain dog owners.

Council Member comments followed: (1) public safety, (2) breed specific problem and related recent events in Auburn, (3) cost of enforcement, (4) vicious dog could be any breed, (5) holding owners accountable, (6) increasing dog limit to at least 4, (7) rescue organizations, foster animals and trainers exception, (8) possibly having no animals for felons, and (9) no animal limit for large lots.

Lance Lowe clarified that the County has a 4-dog limit for single family residences, and exceptions for larger parcels.

Mayor Powers would like rescue and service dogs to be addressed in the ordinance. She said she does not support fee increases. She also said she supports a resolution to the courts to have a say in particular people owning large animals.

City Attorney Michael Colantuono recommended the Council remove a limit on the number of dogs in a household from the ordinance altogether and bring it back as a zoning ordinance if the Council's intend was to adopt regulations similar to those in place for County unincorporated areas.

Council Member Nesbitt said he would like to see a licensing arrangement for animals that are being fostered.

By **MOTION**, change proposed amendments to the ordinance to eliminate the limit on animals per parcel and direct staff to bring the ordinance back for a second reading at the June 14, 2010 Council meeting:

- A. Adopt a Statutory Exemption prepared for the amendment of the City Municipal Code Chapter 97 entitled Animals, as the appropriate level of environmental review, in accordance with Section 15061 (b)(3) of the California Environmental Quality Act (CEQA) and Guidelines;
- B. Adopt Findings of Fact for approval of the Amendments to Chapter 97 of the Auburn Municipal Code;
- C. Introduce and hold a first reading, by title only, of the Animal Regulations Ordinance amending various sections of Chapter 97 of the Auburn Municipal Code relating to animals, thereby establishing standards and criteria, in accordance with State law, for the spay,

neutering and breeding of pit bull dogs (**Attachment 1**); with the deletion of Section 97.026 which imposes a limitation on the number of dogs which may be maintained on a parcel; and

D. Direct staff to prepare a zoning ordinance regarding the number of dogs modeled on County zoning standards, including a provision for fostered animals, and

E. Direct staff to prepare a resolution for Council consideration stating City policy asking the District Attorney to seek conditions of probation and parole prohibit ownership of animals over 20 pounds by those convicted of violent crimes and drug dealing;

F. Adopt a resolution establishing an updated fee schedule with the exception of keeping current fees for altered and unaltered dogs.

G. Request staff comes back to Council with a review of how ordinance is operating after one year's time.

**MOTION: Hanley/ Nesbitt/ Approved 4:1 (Holmes voted no)**

## REPORTS

### 9. **City Council Committee Reports**

Council Member Holmes said the Arts Commission has been working on criteria for the art in Central Square. He said they plan to bring some suggestions to the Council about temporary art.

Council Member Holmes said he was at the BOR (Bureau of Reclamation) in Folsom today regarding Lake Clementine. He said they have not come up with a long-term solution to keep the lake open. He hopes to have solid suggestions within the next couple months.

Council Member Nesbitt reported that California Transportation Commission held a town hall meeting at the offices of Placer Co. Transportation Agency.

Council Member Nesbitt said that SHAAC will be reporting to Council soon with its recommendations for interpretative signs and tile nominations.

Council Member Kirby said "Movie Night in Auburn" has many interested sponsors and dates are already planned for summer.

Mayor Powers thanked the Endurance Capital Committee for their work at Amgen Tour.

## **COUNCIL BUSINESS**

10. **Annual Business Improvement Districts (BID) Report Review and Resolution of Intention to Levy and Collect Assessments for Fiscal Year 2010-11**

City Attorney Michael Colantuono presented the item.

Jim Brill, president of Downtown Business Association, reviewed his report (full report available in City Clerks Office).

Kerry Arndt, president of Old Town Business Association, reviewed her report (full report available in City Clerks Office).

Council Member questions followed regarding: (1) stamped asphalt project in Old Town, (2) problems with unpaid association fees, and (3) City's responsibility to collect fees.

By **RESOLUTION 10-50**:

1. Appoint the City Manager as the advisory board for the Old Town BID and direct him to produce the report required pursuant to Section 36533 of the 1989 Law for Fiscal Year 2010-11 with respect to the Old Town BID.
2. Appoint the City Manager as the advisory board for the Downtown BID and direct him to produce the report required pursuant to Section 36533 of the 1989 Law for Fiscal Year 2010-11 with respect to the Downtown BID.
3. Approve the Annual Reports as filed by the Advisory Board for the Old Town and Downtown BIDs.
4. Set a Public Hearing for June 14, 2010 to levy annual assessment fees for fiscal year 2010-11 for the Old Town BID.
5. Set a Public Hearing for June 14, 2010 to levy annual assessment fees for fiscal year 2010-11 for the Downtown BID.

**MOTION: Holmes/ Hanley/ Approved 5:0**

11. **Fiscal Year 2010-11 Preliminary Budget Overview**

Finance Director Andy Heath presented the preliminary budget overview (available in full in City Clerk's office).

Council Member Holmes asked about the redevelopment funds being taken by the State.

Council Member Hanley asked about dollar figures on CalPERS employee pension cost increases and Police Officer grant-funded positions.

12. **Fiscal Year 2010-11 Sewer Service Use Rate Increase Discussion**

Finance Director Andy Heath presented this item (available in full in City Clerk's office).

Council Member questions followed regarding: (1) minimum/mandatory penalties budgeted, and (2) UV Disinfectant Reserve.

Dan Sokol, Deerwood Place in Auburn, addressed some of the allocated funds in this report and suggested "passing on the scheduled increase for FY 10-11" because savings on the plant improvements made the increase unnecessary in this year.

By **MOTION**, direct staff to prepare a resolution for Council consideration by which it can suspend implementation of the scheduled rate increases for fiscal year 2010-11.

**MOTION: Hanley/ Nesbitt/ Approved 5:0**

13. **Flag Pole Relocation to Central Square**

Council Member Nesbitt presented this item. He said the new location would make the flag more visible, and the tiles that are no longer being used for endurance events winners could be used to engrave the Pledge of Allegiance on the ground. He said he would like to see this done in Phase 2 of the streetscape.

Dan Sokol, Deerwood Place in Auburn, said he supports moving the flag to Central Square and incorporating the Pledge of Allegiance.

Bob Snyder, Marina Ave in Auburn, suggested having the flag on a center line of the street to make it more visible for drivers.

Council Member Holmes said he would like to look at the available sizes of the flag that will fly at this location.

By **MOTION**, direct staff to incorporate into Phase 2 of the Streetscape Project relocation of the flag pole to Central Square and engraving the words of the Pledge of Allegiance in the tiles below the flag.

**MOTION: Hanley/ Nesbitt/ Approved 5:0**

\*\*\*Council took a 5-minutes recess\*\*\*

14. **Analysis of City Clerk Function**

Consensus of the Council was to hold the discussion in absence of the City Manager (who left the meeting early due to illness).

Council Member Holmes felt the report was thorough enough to discuss the item in the City Manager's absence. He discussed much of the background on this item. He asked if the City should consider an item on the ballot in November to ask the public if Auburn should continue to have an elected City Clerk.

Council Member Hanley asked about elections costs in regards to the measure for City Clerk. He asked what we would save with an appointed City Clerk every 4 years.

City Attorney Michael Colantuono said it is a per line, per office, per registered voter figure.

Council Member Hanley asked about the attachment from a City Clerk in 1999. He said this letter is no longer valid because we currently do not record "action minutes". He said his concern is that we continue to keep a true and unbiased record.

Council Member Kirby clarified the cost of the positions and possible cost savings.

Council Member Nesbitt said the overtime costs / salary increase could create a "wash".

Council Member Holmes said a savings should be realized over the next few years due to the new assistant city clerk being hired at a lower pay scale than the previous city clerk, due to experience.

City Clerk, Joe Labrie addressed the staff report by City Manager Bob Richardson referencing the duty of the Elected City Clerk to oversee the City Clerk's office, just as the Elected City Treasurer oversees the finance department." He said both are "independent overseers of the office". He said the importance of the City Clerk being elected is so he can not be intimidated by other officials of the City. He said he feels his job duties include ensuring there is no injustice in the City Clerk's office. He said there should be no prerequisites on the elected City Clerk position, similar to the Council Member position. He said the measure to make the Clerk's office appointive has failed twice, last time overwhelmingly.

Council Member Holmes said he feels like some of the City Clerk's public comments were misleading. He asked what the primary responsibility of the City Clerk is, if he is CMC certified and if he is a Notary Public.

Dan Sokol, Deerwood Place in Auburn, said he is in support of having an elected City Clerk because he would like to see the Clerk report to the citizens, not to the Council.

Bob Snyder, Marina Ave in Auburn, said having an elected city clerk is not "using your dollars wisely". He said a 4 year term of an elected city clerk costs on average \$42,600. He said he feels there would be no increased costs to have an appointed City Clerk. He said on average, the elected city clerk is making \$100 an hour, while Council makes closer to \$10 an hour due to time on the job. He said the Clerk is not elected to be a 6<sup>th</sup> vote on the Council. He said he disagrees with the idea that the City Clerks duty is to keep the Council "in line".

Council Member Holmes said the trend in cities all over California is to go from Elected City Clerk to Appointed City clerks because the position has gotten more technical then it used to be. He said the demand of the City Clerk is much less then a Council Member, hourly. He said to ensure minutes are fair and accurate, Council meetings are taped and video recorded. He said there are many elected officials just on the county level that need to have prior qualifications.

Council Member Hanley said if excess pay of the City Clerk is the problem, the Council can lower that pay.

Council Member Kirby said he disagrees with the City Clerks "self" job description. He said he feels like the Elected City Clerk/ Assistant City Clerk setup is "dysfunctional".

Mayor Powers said while she likes the idea of an elected City Clerk, she agrees that the savings can come from looking at appropriate pay for the elected City Clerk position.

City Attorney Michael Colantuono advised the Council that it can not change the qualifications to the office, but the Council has discretion on setting the salary, with the limitation of not setting it so low, that you destroy the office.

Council Member Holmes would like to ask the City Manager to come back with a recommendation of the option of putting this measure on the ballot in November.

Council Member Hanley said there is risk with putting this on the ballot because the electorate trusts the City Clerk to record the true proceedings of the City Council Meetings. He said the upcoming Charter Discussion could include the City Clerk position.


Council Member Kirby is not in favor of reducing his salary but if we appoint the City Clerk we can have set qualifications for the position.

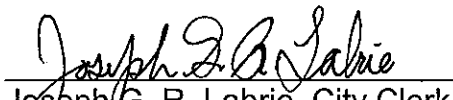
By **MOTION**, direct City Manager to come back to City Council with options regarding appropriate pay for the Elected City Clerk.

**MOTION: Hanley/ Nesbitt/ Approved 3:2 (Holmes & Kirby voted no)**

**ADJOURNMENT**

Meeting was adjourned at 11:12 p.m.

  
Bridget Powers, Mayor

  
Joseph G. R. Labrie, City Clerk