CITY COUNCIL MINUTES
August 22, 2011
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, August 22, 2011 at 6:00 p.m. with Mayor Kirby presiding and City Clerk Joseph G.R. Labrie recording the minutes.

CALL TO ORDER

ROLL CALL:

Council Members Present: Bridget Powers, Kevin Hanley, Keith Nesbitt, William W. Kirby

Council Members Absent: J. M. "Mike" Holmes

Staff Members Present: City Manager Robert Richardson, City Attorney Michael Colantuono, Community Development Director Will Wong, Senior Planner Reg Murray, Associate Planner Lance Lowe, Fire Chief Mark D'Ambrogi, Public Works Director Bernie Schroeder, Administrative Services Director Andy Heath and Police Chief John Ruffcorn.

By **MOTION** adjourn to a Closed Session under Government Code Section 54957.6:
MOTION: Nesbitt/ Powers/ Approved by Voice

The City Council finds, based on advice from legal counsel, that discussion in open session will prejudice the position of the City in the litigation.

(1.) Initiation of Litigation:
(G.C. 54956.9(c))

Name of Case: Ronald Fisher and Judy Fisher v. City of Auburn et al.

Names of Parties: Plaintiffs: Ronald Fisher and Judy Fisher. Defendant: City of Auburn

Case No. S-CV-23750 (Placer Superior Court)

(2.) Existing Litigation:
(G.C. 54956.9 (a))

Name of Case: Auburn Police Officers' Association v. City of Auburn et al.

Names of Parties: Petitioners: City of Auburn. Respondents: Auburn Police Officers' Association

Case No. C067972 (Third District Court of Appeal)

REPORT OUT OF CLOSED SESSION
City Attorney Michael Colantuono advised the Fisher case discussed during closed session involves a misunderstanding about the nature of the City's rights and the nature of the rights of the property owner along an unnamed alley behind Knoll Street. He said in order to clarify the situation the City Council has asked the City Attorney's office to prepare a resolution in which the City Council can formally accept title to that alley. He said this will be brought forward on a future agenda.
No other reportable action.

PLEDGE OF ALLEGIANCE

MAYOR'S COMMENDATIONS/PROCLAMATIONS/ACKNOWLEDGEMENTS/ ANNOUNCEMENTS
Commendation presented for Arts Commissioner Sue Dings.
Latitudes was awarded "Best Restaurant Supporter of Local Agriculture for 2011".
Proclamation presented for Placer High School Class of 1961 Day in Auburn.

AGENDA APPROVAL

Council Member Hanley moved item 14 to follow item 11. The remainder of the agenda was approved as presented by consensus of the Council.

CONSENT CALENDAR

Council Member Nesbitt removed item 3 from the consent calendar. See item 6a.

1. **Minutes**

   By **MOTION** approve City Council Minutes of 7/25/2011.

2. **Appointment of Arts Commissioners**

   By **RESOLUTION 11-94,** reappoint Randy Mealhow and J. Lee Buckingham to the Arts Commission for a four year term ending 8/31/2015.

3. **Acceptance of Easement for the Young Residence/ 140 Greenfield Avenue**

Removed from consent calendar.

4. **Green Communities Program (Phase 2) by the Sierra Business Council**

By **RESOLUTION 11-95,** authorize the Community Development Director to sign the Green Communities Phase 2 Participation Agreement on behalf of the City of Auburn.

5. **Auburn Oaks Lift Station – Environmental Determination and Permission to Advertise**

By **RESOLUTION 11-96,** find the Auburn Oaks Lift Station Project categorically exempt from the California Environmental Quality Act (CEQA) per Section 15301 (Existing Facilities); Section 15302 (Replacement or Reconstruction); Section 15303 (New Construction or Conversion of Small Structures).

By **MOTION,** authorize the Director of Public Works to advertise for the Auburn Oaks Lift Station Project.

6. **Lease For a Portion of Old City Hall to the Placer County Visitor's Bureau and California Welcome Center**

By **RESOLUTION 11-97,** approve the lease agreement with the California Welcome Center/ Placer County Visitor's Bureau.

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

By **MOTION,** approve consent calendar with the exception of item 3.
MOTION: Powers/ Nesbitt/ Approved 4:0 (Holmes absent)

6a. **Acceptance of Easement for the Young Residence/ 140 Greenfield Avenue**

Council Member Hanley recused himself from this item and left the Chambers due to the proximity of his home to the property involved.

Council Member Nesbitt said he pulled the item because the property owner would like to make a public comment statement on this item.

Public Works Director Bernie Schroeder explained the item.

Alan Young, property owner, expressed his gratitude for the quick and thorough response from the Public Works Department while resolving this issue.

By **RESOLUTION 11-98,** authorize the Director of Public Works to accept an easement on behalf of the City of Auburn for drainage improvements at the Young Residence/ 140 Greenfield Avenue.
MOTION: Nesbitt/ Powers/ Approved 3:0 (Hanley recused, Holmes absent)

7. **Public Comment**

Joanne Neft, resident of Auburn, announced that on September 14th at 7:30 p.m., PBS's America's Heartland will be highlighting the Auburn Farmer's Market and the Placer County Real Food Cookbook on KVIE Channel 6. Council Member comments followed supporting Joanne and her efforts to promote local agriculture.

Mike Fecteau, spoke against enforcement of the City's marijuana dispensary ordinance against S&R Blooms and Blossoms Medical Marijuana Dispensary.

Nickolas Stong, resident of Sacramento, spoke against enforcement of the City's marijuana dispensary ordinance against S&R Blooms and Blossoms Medical Marijuana Dispensary.

Pam Martini, resident of Sacramento, spoke against enforcement of the City's marijuana dispensary ordinance against S&R Blooms and Blossoms Medical Marijuana Dispensary.

PUBLIC HEARING

8. **General Plan Amendment and Pre-zone at 880 & 890 Foresthill Avenue**

Associate Planner Lance Lowe presented this item (presentation covered in staff report).

Dennis Meyer, representing Ron and Kathy Meyer who own the property, said the existing sewer systems on site are not suitable for the remodeling that needs to be done to the property.

Council Member questions followed regarding sewer fees, tax sharing agreement, connection fees, and the annexation fee.

1. Adopt a **RESOLUTION 11-99** approving the 880 & 890 Foresthill Avenue General Plan Amendment as presented; and

2. Introduce and hold first reading, by title only, of an **ORDINANCE** to Pre-zone the properties to Open Space Conservation (OSC) and Agricultural Residential, minimum parcel size 2.5 acres (AR-2.5), which includes the following actions:

a. Adoption of a Categorical Exemption, prepared for the General Plan Amendment and Pre-zone as the appropriate level of environmental review in accordance with the California Environmental Quality Act (CEQA) and Guidelines;

b. Adoption of Findings of Fact for approval of the General Plan Amendment & Pre-zone as presented in the Council Report; and,

c. Approval of the General Plan Amendment & Pre-zone in accordance with the Conditions of Approval as presented in the Council Report.
MOTION: Nesbitt/ Powers/ Approved 4:0 (Holmes absent)

REPORTS

9. **City Council Committee Reports**

Mayor Kirby reported on the nine successful movie nights held in Auburn this summer.

COUNCIL BUSINESS

10. **Airport Monument**

Randy Mealhow, Chair of the Arts Commission, presented this item. He said there is no request for funds, only a request to place the monument on city-owned property at the airport. He said the work will be completed by Frank Ordaz and assisted by Doug Van Howd.

Council Member Powers asked if Auburn Aviation Association is in support of the art design. She suggested showing the piece to the Auburn Airport Business Park Association.

Council Member Hanley asked if there would be an associated plaque placed on the art.

Council Member comments followed thanking the people who have been involved in bringing this art piece forward.

By **MOTION,** approve the placement of a monument honoring World War II Aviators on city-owned property next to Wing's Restaurant.
MOTION: Hanley/ Powers/ Approved 4:0 (Holmes absent)

11. **9/11 Memorial at City Hall**

Randy Mealhow, Chair of the Arts Commission presented this item. He said the Port Authority of New York and New Jersey has made available a section of metal from the World Trade Center, destroyed by terrorists on September 11, 2001. He said the City received a 20 pound piece of steel several months ago. He said the memorial would be mounted at City Hall but the top part could be transported to other venues where memorial commemorations could take place in the community.

Council Member questions followed regarding a detailed plaque describing the memorial, material costs, committee/commission fund balances, and the memorial location.

Randy Mealhow addressed other locations for the memorial. He said there are concerns with maintenance, vandalism, and liability.

City Manager Robert Richardson said the memorial could be rotated throughout the community over time.

Cheryl Maki, resident of Auburn, commended the Arts Commission for the idea. She said she would like the wording for the plaque to be determined by the Council. She said the location for the memorial should be City Hall.

Jim Bennett, resident of Auburn, said he opposes the idea of having this memorial designed behind a glass case.

Council Member comments followed regarding available funds, City Hall location, open design.

Fire Chief Mark D'Ambrogi described the piece of metal being used in the memorial. He expressed concerns with safety and security of the piece while on display.

By **MOTION,** approve the expenditure of $2,500 for the commissioning and placement of a 9/11 memorial at City Hall with the wording for the plaque to come back to City Council for final approval.
MOTION: Powers/ Hanley/ Approved 4:0 (Holmes absent)

11a. **Proposed Home Rule for Auburn Charter of 2012 (formerly #14)**

City Attorney Michael Colantuono presented this item. He said at the last City Council meeting it was decided to place a charter on the ballot before the voters in June 2012. He said the City Attorney's Office was requested to prepare a version of the charter that reflects the decisions made at the August 8th meeting and to include the City Attorney's drafting recommendations. He said there is also a resolution that calls the special election for June 5, 2012 and requests the election be consolidated with the state primary being conducted by the County Registrar of Voters. He advised Council to discuss the charter to the extent necessary, specify any further revisions, and adopt the resolution to place the charter before the voters.

Council Member Powers requested Michael Colantuono review each section to address revisions. She asked about separating out the issue of the elected City Clerk and City Treasurer.

Mayor Kirby asked what changes to the city charter draft would be necessary if the 2 elected positions were removed.

Council Member Nesbitt asked for clarification on separating out the clerk and treasurer as an immediate amendment to the charter on the ballot.

Jim Bennett, resident of Auburn, suggested wording to strengthen the city charter draft. He suggested section 200 to read: "maintains existing form of government", section 302 replace "and" with "or" before "contracts with professional services", and section 401 to clarify "mandates".

Harriet White, resident of Auburn, complimented the legal counsel on being practical, well spoken and thoughtful. She said to leave the issue of clerk/treasurer for "another time".

Wayne Manning, resident of Auburn, said he appreciates Council Member Hanley and the Council for bringing this issue forward. He spoke in favor of a city charter for Auburn.

Jerry Wilfley, resident of Auburn, (comment partially not recorded.)
He spoke about section 300, city bids against private industry and section 304, prevailing wage and bid advantages.

Michael Otten, resident of Auburn, had numerous suggestions for the draft city charter (see written public comment submitted).

Eric Christian, resident of Alta Sierra, spoke in favor of a city charter for Auburn. He provided sample "Fair and Open Competition Language" for consideration.

Cheryl Maki, resident of Auburn and business owner, spoke about how prevailing wages are addressed in the current draft. She spoke about the negative effects on doing business in California with prevailing wage requirements. She said she would also like to see the clerk/treasurer issue separated from the charter.

Bob Snyder, resident of Auburn, said he is unsure why the clerk/treasurer issue even needs to be addressed, but if it does, it needs to be addressed separate from the city charter draft. He said he agrees with Mr. Christian's (previous speaker) language as proposed.

Joseph Labrie, resident of Auburn and Elected City Clerk, reminded the Council that the elected clerk/ Tteasurer issue was previously on the ballot and overwhelmingly rejected by the voters. He said having this issue written into the city charter is a "back door way of beating the voters." He said it is not being handled fairly. He said if it was a separate question, he does not believe it would pass. He noted that the elected city treasurer has not attended any City Council meetings in regards to this issue.

City Attorney Michael Colantuono addressed some questions asked during public comment.

Council Member Hanley spoke about: (1) local control vs. state legislature, (2) eliminating provision in regards to appointed clerk and treasurer, (3) minor language revisions, (4) public involvement in improving the draft charter, and (5) the mission statement.

Council Member Powers said the clerk / treasurer issue needs to be separate from the draft city charter.

Council Member Nesbitt spoke in favor of the proposed minor language changes. He said he is looking forward to educating the people of the community that this is a positive move for Auburn and counteracting all the disinformation that has been provided in regards to a city charter.

Mayor Kirby said he also agrees that the clerk / treasurer issue should be removed from the draft charter. He also addressed many of the items brought up in previous comments and his opinion on each separate section. He asked the City Attorney's opinion on the verbiage provided by Mr. Christian.

City Attorney Michael Colantuono summarized the requested changes to each section.

Council Member comments followed regarding section 304 (Think Auburn First).

Mayor Kirby said he would like to see a draft with the revisions completed at the next meeting.

Council Member Hanley recommended a clean version of the city charter draft with the amendments, to be placed on the consent calendar at the next meeting.

12. **League of California Cities Annual Conference**

City Manager Robert Richardson said the League of California Cities is holding its annual conference in September. He said if any council members will be attending, a voting delegate needs to be decided. He said there are funds budgeted for this conference.

Council Member Hanley said due to budget constraints, the council should not send a council member to this annual conference. Council Member Nesbitt agreed.

Council Member Powers said she would like a "place at the table". She said she can not attend, but would support another council member to attend.

Mayor Kirby said if a council member wanted to go on their own, he would support making them a delegate, but he doesn't feel the city should be financing it.

By **MOTION**, do not send a voting delegate or alternate voting delegate to this conference.
MOTION: Hanley/ Nesbitt/ Approved 3:1 (Holmes absent, Powers no)

Council recessed for 5 minutes

13. **Auburn Police Department Yearly Report**

Police Chief John Ruffcorn presented this item (full report available in the staff report). The report outlines the course of the Police Department over the last three years, lists the work being completed by our department personnel, and provides insight into crime information.

Council Member Hanley asked about the increase of incidents on the agency comparison report and tracking of department performance.

Mayor Kirby asked about crime stats on the agency comparison report and the day-to-day needs to increase efficiency.

Council Member comments followed regarding: (1) efficiency, (2) citizens awareness academy, (3) community policing, (4) staffing and (5) police department image.

14. **Proposed Home Rule for Auburn Charter of 2012**

Moved to 11a.

ADJOURNMENT

Mayor Kirby adjourned this meeting, without objection, to a meeting of the Auburn Urban Development Authority at 9:07 p.m.

William W. Kirby, M.D., Mayor

Joseph G. R. Labrie, City Clerk