CITY COUNCIL MINUTES
October 28, 2013
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, October 28, 2013 at 6:00 p.m. with Mayor Hanley presiding and City Clerk Stephanie L. Snyder recording the minutes.

CALL TO ORDER

ROLL CALL:

Council Members Present: Keith Nesbitt, J. M. "Mike" Holmes, William W. Kirby, Bridget Powers, Kevin Hanley

Council Members Absent: None

Staff Members Present: City Manager Robert Richardson, City Attorney Michael Colantuono, Administrative Services Director Kimberly Juran, Community Development Director Will Wong, Senior Planner Reg Murray, Public Works Director Bernie Schroeder, Administrative Analyst Megan Siren, Fire Chief Mark D'Ambrogi, Police Chief John Ruffcorn and Police Lt. Victor Pecoraro.

By **MOTION** adjourn to a Closed Session under Government Code Section 54957.6
MOTION: Nesbitt/Holmes/Unanimously approved

Conference with Legal Counsel; Existing Litigation (Gov. Code § 54956.9(d)(1))

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

Name of Case: Roye v. County of Placer, City of Auburn, et al., Names of Parties or Claimants: John Roye (Deceased) by Narinder Roye (wife) Case No. or Claim No.: Workers Compensation Appeals Board No. ADJ7700741.

REPORT OUT OF CLOSED SESSION

Mayor Hanley announced no reportable action.

PLEDGE OF ALLEGIANCE

MAYOR'S COMMENDATIONS/PROCLAMATIONS/ACKNOWLEDGEMENTS/ ANNOUNCEMENTS

Mayor Hanley recognized the five Auburn Police Officers that were involved in the shooting incident in Roseville. He also recognized the City Manager and Police Chief on their anti-panhandling presentations throughout the community.

AGENDA APPROVAL

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

CONSENT CALENDAR

Council Member Nesbitt removed item 4 from the consent calendar for further discussion.

1. **Appointment of Arts Commissioners**

   By **RESOLUTION 13-118**, reappoint April Maynard and Terri Goodman to the Arts Commission for another four year term.

2. **Cancellation of a City Council Meeting**

   By **MOTION**, approve the cancellation of the regular City Council meeting on November 11, 2013.

3. **Auburn Transit On-Board Surveillance Project**

   By **RESOLUTION 13-119**, authorize the Director of Public Works to purchase on-board surveillance from 247 Security, Inc. for Auburn Transit.

4. **Consultant Agreement for RFP for Operations & Maintenance for the WWTP**

   Removed from the consent calendar; see 4a.

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

   By **MOTION**, approve the consent calendar excluding item 4. The motion was made by Council Member Holmes, seconded by Council Member Nesbitt. Passed by the following roll call vote:

   Ayes: Nesbitt, Holmes, Kirby, Powers, Hanley
   Noes:
   Absent:
   Abstain:

4a. **Consultant Agreement for RFP for Operations & Maintenance for the WWTP**

Council Member Nesbitt asked about the satisfaction with the current provider at the Wastewater Treatment Plant (CH2M Hill – OMI). He asked what the consultant provides in this RFP process / contract. He asked about the transition period if a new company is hired. Public Works Director Bernie Schroeder addressed his questions.

Mayor Hanley asked about the current annual costs with OMI. Bernie Schroeder explained the direct cost budget for the WWTP.

Mayor Hanley said because a RFP has not been completed in 20 years, this is the right process. He said it develops performance standards and a second look at how the plant is operated.

Council Member Kirby said due to the successful management and oversight of the current provider at the WWTP, this process is not necessary.

Council Member Nesbitt said due to the incredible job being done by OMI at the plant, he thinks the RFP will show that the right people are already in place, so he does not agree with the cost of $50,000 to do that.

Council Member Holmes said this RFP process will act as an audit, reviewing what is happening there, and provides a second set of eyes. He said he agrees the current provider is doing a great job.

By RESOLUTION 13-120 authorize the Director of Public Works to execute the consultant agreement with Municipal Consulting Group, LLP for the Request for Proposals process for the operations and maintenance of the Wastewater Treatment Plant and Sewer Collections Systems. The motion was made by Council Member Holmes seconded by Council Member Kirby. Passed by the following roll call vote:

Ayes:	Holmes, Kirby, Powers, Hanley
Noes:	Nesbitt
Absent:	
Abstain:	

5. **Public Comment**

City Clerk Stephanie Snyder introduced two international guests studying local government processes through the International City/County Management Association (ICMA) for two weeks in Rancho Cordova. Stephanie Snyder introduced Ms. Aphakorn Trairekpan from the Municipality of Songkhla, Thailand and Dr. Wang Jingbo from Beijing, China.

Council Member Holmes reported that the Arts and Humanity proclamation (from the last meeting) was delivered to the Placer Arts office.

Council Member Kirby recognized the Placer Hillman for a good football game last week.

COUNCIL BUSINESS

6. **Placer County Water Agency (PCWA)/ Presentation to Council**

A presentation was made by Andy Fecko, Water Resources Manager from PCWA. He spoke about the state's plans for the Bay Delta region and specifically how it plans to change the operation of the water conveyance system in California to account for 1) growth in Southern California the 2) changing climate and rising sea levels. He asked the Council to authorize the Mayor to sign a joint letter of support from the region regarding the Bay Delta Conservation Plan.

Council Member Powers asked about different solutions to be presented to the state. She also asked which cities have supported this letter.

Council Member Kirby asked about the current state of reservoirs around Northern California.

Council Member Holmes asked about the plan to have gates where the Delta meets the San Pablo Bay. He also asked about federal funds available.

Council Member Nesbitt asked if desalination of sea water has been looked at.

Mayor Hanley asked about the capability of the Department of Water Resources to come to a solution without problems with the Endangered Species Act or other environmental laws.

Council Member comments followed regarding the importance of this issue and general support.

Andy Fecko said there is not final language for the letter of support quite yet and PCWA will bring it back to Council when it is finalized.

By **MOTION**, continue this item until the Council meeting of November 25, 2013 when PCWA will have the letter to be considered. The motion was made by Council Member Nesbitt, seconded by Council Member Kirby. Passed by the following roll call vote:

Ayes: Nesbitt, Holmes, Kirby, Powers, Hanley
Noes:
Absent:
Abstain:

City Council recessed for 3 minutes

PUBLIC HEARINGS

7. **Ordinance Amendment – Regional Commercial – Emergency Shelter Zone District; Transitional Housing; and Supportive Housing**

Mayor Hanley said item 7, 8 & 9 are all so closely related, that they can be heard at the same time. He encouraged the public to speak on any of the three items during this item.

The presentation was made by Senior Planner Reg Murray. He said that this is a process the city is going through to satisfy a state requirement. He gave a summary of the actions taken from the past 10 meetings the Council / Planning Commission have held regarding this issue. He explained that this is a first reading of an ordinance which establishes the Regional Commercial – Emergency Shelter (C-3-ES) zoning district, develops standards for permanent and temporary emergency shelters, and permits Supportive and Transitional Housing in the Medium Density Multiple-Family Residential (R-3) zone district. He said it includes development standards for occupancy, parking requirements, management, facilities and operations plans. He said there are also provisions for temporary shelters. He explained item 8 and the proposed rezone. He said the Planning Commission had recommended denial of both of these items. He explained the item 9 proposal for the Industrial (M-2) zoning district. He spoke about possible legal ramifications of a non-compliant housing element.

City Attorney Michael Colantuono addressed the possibility of zoning this type of use at the Auburn Airport. He spoke about the Airport Land Use Commission's role in zoning at the Airport. He said the only sites that could be rezoned at the airport are in the C-1 over-flight zone and would not be recommended because they could accommodate the use of a shelter and because the land is all owned by the City and subject to long term leases for non-residential uses.

Council Member questions followed regarding: 1) allowed "by right" uses, 2) undeveloped land permit process, 3) private property owner rights, 4) eminent domain, 5) M-2 zone buffer, 6) fencing requirement impact on a zone, 7) airport property, 8) other city-owned property, 9) excluded properties in M-2 zone, 10) the M-1 zone, 11) review of locations side by side, 12) emergency shelter development during a period when the housing element is out of compliance, 13) number of potential sites in the

M-2 zone, 14) concerns regarding impact on property values, and 15) Blocker Drive property.

Public comment:

Gerry Mifsud, resident on Mikkelson Drive and Board Chairman of Auburn Villa Association.
Carmen Tribur, resident on Highland Drive.
Merv Hall, property owner in M-1 zone of Sacramento Street.
John Stevens, co-owner of Auburn Grocery Outlet.
Otto Fox, representing his parents (written copy of testimony in record).
Kenneth Johnson, resident at 115 Electric St.
Arnold Mert, property owner in C-3 zone.
Bhakti Banning, resident of Auburn.
Diane Roberto, resident at 115 Electric St.
Richard Fong, property owner on Borland Avenue.
Jeff Cowen, resident at 179 Electric St.
Gary Mapa.
Mark Gibson, resident on Mikkelson and business owner on Borland Ave.

Council recessed for 7 minutes

Council Member Nesbitt commented on defining "homeless" and envisioning a homeless shelter as a positive feature of our community.

Council Member Holmes commented on considering the airport and the Blocker Drive property. He said a decision needs to be made.

Council Member Powers said the City Council has heard that no one wants this zoning by their home or business, but the City must designate a zone to comply with the state requirements. She spoke about the anti-panhandling campaign. She suggested concerned residents contact Senator Gaines' office to request legislation that will help small cities like Auburn comply with these types of requirements which really require regional solutions.

Council Member Kirby asked the City Attorney for clarification regarding the possible loss of grants referenced in Mr. Fox's public comment.

City Attorney Michael Colantuono said one of the benefits of having a certified housing element is you maintain your eligibility for state housing loans. He said as long as SB2 law is complied with, the grant availability will be the same. How the City complies with SB2 should have no impact on grant eligibility.

Council Member Kirby said the airport is not an appropriate site for many reasons. He said he feels the Council has done their due diligence and gone over this item thoroughly. He addressed homeless camps,

misconceptions about homeless shelters, half-way houses in the City, impacted property owners, Blocker Drive property being too small for this use, and the proximity to parks in all zones.
Mayor Hanley said he agrees that the City Council has spent a lot of time thoroughly looking at this issue. He said he wants to make the best decision to maximize public safety for Auburn residents. He compared the C-3 and M-2 options, stating the impact on surrounding uses arising from placing this use in C-3 is slightly less.

By **MOTION**, adopt a statutory exemption prepared for the ordinance as the appropriate level of environmental review in accordance with Section 15061 (b)(3) of the California Quality Act (CEQA) and Guidelines;

By **MOTION**, adopt the following Finding of Fact for approval of an Ordinance which establishes the Regional Commercial – Emergency Shelter (C-3-ES) zone district and permits transitional and supportive housing in the R-3 zone:

1. The Ordinance implements State law;
2. The Ordinance is consistent with the Auburn General Plan Housing Element; and
3. The Ordinance is the minimum necessary to protect the public interest, health, safety and general welfare.

By **MOTION**, introduce and hold a First Reading, by title only, of an ordinance which establishes the Regional Commercial – Emergency Shelter (C-3-ES) zone district and permits transitional and supportive housing in the R-3 zone.

The motion was made by Council Member Holmes, seconded by Council Member Nesbitt. Passed by the following roll call vote:

Ayes: Nesbitt, Holmes, Kirby, Powers, Hanley
Noes:
Abstain:
Absent:

8. **Re-Zone – Regional Commercial – Emergency Shelter Zone District (Auburn Ravine Road Project Area)**

Senior Planner Reg Murray presented this item. He said this will rezone nine lots from the Regional Commercial zone to the Regional Commercial ES zone.

By **MOTION**, adopt the Initial Study and Negative Declaration prepared in accordance with the California Environmental Quality Act for the Auburn Ravine Road project area rezone; and

By **MOTION**, introduce and hold a first reading, by title only, of an ordinance which approves the Rezone proposal to rezone nine lots, generally located west of Auburn Ravine Road and north of Elm Avenue from Regional Commercial (R-3) to Regional Commercial – Emergency Shelter (C-3-ES)

The motion was made by Council Member Nesbitt, seconded by Council Member Kirby. Passed by the following roll call vote:

Ayes: Nesbitt, Holmes, Kirby, Powers, Hanley
Noes:
Abstain:
Absent:

9. **Ordinance Amendment – Emergency Shelters in the Industrial (M-2) zone; Transitional and Supportive Housing in Multi-family Residential (R-3) zone**

Senior Planner Reg Murray explained this was the proposal that would add as a permitted use emergency shelters in the Industrial Zone.

(Council did not need to take action on this item because of the action taken for items 7 and 8; the item was opened for public comment.)

Public comment:

Otto Fox, spoke about his discussion with the Department of Housing and Community Development (providing their response as part of the record). He explained the impact on HOME grant funds arising from non-compliance with SB2.

Frank Caraska, resident of Auburn.

Council Member Kirby addressed the difference of opinion between him and Mr. Fox, stating he defers to the City Attorney for legal opinion.

Mayor Hanley, in the absence of an objection, declared no action needed on this item.

COUNCIL BUSINESS

10. **Regional Sewer Common Pipeline Intent to Commit**

Staff report presented by Public Works Director Bernie Schroeder. She said the action on this item is to provide staff with direction on where to go with the Regional Sewer Common Pipeline project. She reviewed past actions which resulted in 9 deal points approved by Council which were forwarded to Placer County and the City of Lincoln. She said the

project was bid in the summer, which totaled $37.7 million, combined with all costs associated with the project totaling $73 million. She said Placer County and City of Lincoln are now requesting the City Council make a decision regarding the common pipeline (the section of pipe that could be used by the City of Auburn and the other parties) by November 1st. She said the project is estimated to cost the City of Auburn $3,021,306 with a 25% contingency added, making it $3,776,632 (based on the construction bids received). She addressed the deal points individually and the response or lack of response on each.

Council Member Kirby asked about the deal points not being included in the current agreement from Placer County, the Regional Water Quality Control Board's view on Auburn as a stand-alone vs. regional, and the Regional Board's knowledge of the deal points requested.

Council Member Nesbitt asked about the capacity purchase agreement deal point to include Lincoln's responsibility to purchase the capacity if a deal is rejected.

Council Member Holmes asked about the contingency requirements, the November 1st deadline, decommissioning of Auburn's plant, Proposition 218 hearings, and the fiscal commitment deadline.

Mayor Hanley asked about the weekly PCT meetings and the COJA (agreement).

No member of the public wished to comment.

Council Member Powers said she believes the option of having a regional connection should always be kept open. She said there will always be big risks of having to do major upgrades locally. She said she supports maintaining capacity to go regional with further clarification of the costs and working closer with the County and the City of Lincoln on deal points.

Council Member Kirby said he is disappointed the deal points were not addressed more specifically from the regional sewer partners. He said he is in favor of a regional plant, and reserving capacity is the right thing to do. He said he is surprised to see the estimates come back higher when the bids came in lower.

Bill Zimmerman, Deputy Director with Placer County Facility Services, said he would be happy to take back any action the board takes tonight. He said information needs to be provided to Lincoln, as they are ready to award construction contracts. He said a majority of the deal points are ultimately going to be between the City of Lincoln and the City of Auburn because the City of Lincoln owns, operates and maintains the facilities.

Council Member Holmes said he does not want to see this opportunity get passed up.

Council Member Nesbitt spoke about Auburn's participation in this project, costs associated with running the local plant while participating in the regional sewer project, increasing estimate of Auburn's share, and a decision with conditions.

Mayor Hanley said the City of Auburn has been willing to engage in this issue over the past 15 years to work something out. He spoke about a how a true regional structure, where costs and benefits are shared and a Joint Powers Authority were never constructed. He said there are many unknowns. He said he feels like they are being asked to give a blank check, in which the taxpayers would be on the line for. He said he can't support moving forward with this project.

By **MOTION**, notify Placer County and the City of Lincoln of Auburn's intent to purchase capacity in the common pipe pending further evaluation of the costs and the deal points presented to those respective agencies in April 2013. There will be an aggressive pursuit led by one of the Council Members (in concert with staff) to understand the origin of the buy-in costs and negotiate with elected officials from Placer County and the City of Lincoln regarding Auburn's deal points. This item would then be brought back to Council for consideration.

The motion was made by Council Member Kirby, seconded by Council Member Holmes. Passed by the following roll call vote:

Ayes: Holmes, Kirby, Powers
Noes: Nesbitt, Hanley
Abstain:
Absent:

REPORTS

11. City Council Committee Reports

Council Member Nesbitt reported on the Placer County Transportation Planning Agency meeting. He said they are trying to develop funding strategies for transportation needs.

Council Member Holmes reported on the Auburn Arts Commission and some projects they are currently working on.

Council Member Kirby reported on the Bud Anderson Statue unveiling event on November 7th at the Van Howd Studio.

Council Member Powers reported on a successful Commercial Real Estate Broker breakfast held at the Auburn Airport.

ADJOURNMENT

Mayor Hanley adjourned the meeting, without objection, at 10:04 p.m.

Kevin Hanley, Mayor

Amy M Lind, Deputy City Clerk
Stephanie L. Snyder, City Clerk