

**Auburn City Council  
Regular Meeting  
Thursday, November 4, 2021 5:00 P.M.  
City Council Chambers  
Memorial City Hall  
24 South St.  
Auburn, NY 13021**

**Minutes**

The meeting of the Auburn City Council was called to order at 5:00 p.m. from the City Council Chambers, 24 South St. Auburn, NY by Mayor Quill.

**ROLL CALL** – The City Clerk called the roll. Mayor Quill, Councilor Deb McCormick, Councilor Jimmy Giannettino, Councilor Terry Cuddy, Councilor Tim Locastro were all present.

**The following City Staff was present for the meeting:**

- City Manager, Jeff Dygert
- Asst. Corporation Counsel, Nate Garland
- City Clerk, Chuck Mason
- City Engineer, Bill Lupien
- Police Chief, James Slayton
- Fire Chief, Mark Fritz
- Director of Capital Projects and Grants, Christina Selvek

**Pledge of Allegiance to the Flag** – Mayor Quill led the Pledge of Allegiance.

**Moment of Silent Prayer or Reflection** – Mayor Quill asked for a moment of silent prayer.

**Public Announcements**

**City of Auburn Community Development Block Grant - 2022-2023 Program Year Community Input** The City of Auburn is looking for community input on distributing Federal Community Development Block Grant funds to help low to moderate income city residents and areas. Funding priorities are based on community input from public meetings and survey responses. There is a community survey available for residents to complete. To fill out a survey go to: <https://www.surveymonkey.com/r/AuburnCDBG2022>

If you have questions or need any further information please contact the Office of Planning and Economic Development by phone at 315-253-3513 or by email at [rjensen@auburnny.gov](mailto:rjensen@auburnny.gov)

The City of Auburn, NY Transfer Station has announced the **2021 Fall Cleaning Days** for Auburn CITY RESIDENTS ONLY will be held:

Dates: Saturday, November 6, 2021 and Saturday, November 20, 2021

Hours: 7:00 am - 12:00 p.m.

Location: City of Auburn Transfer Station, 311 North Division Street

All Rules are listed at auburnny.gov and Will Be STRICTLY ENFORCED. For more information or questions call: 315-252-6441

### **CEREMONIAL PRESENTATIONS – none**

**Public to be heard:** Mayor Quill asked the Clerk read the public to be heard rules.

Amanda Rusin from Perrine Avenue spoke to discuss sidewalks installed by the Community Development Block Grant program funding on Perrine Avenue and issues she has with the sidewalk installed on her property.

### **Approval of Meeting Minutes - none**

### **Reports of City Officials**

#### **A. City Manager's Report**

- City staff is currently working on the FEMA application process to recoup some of the expenses incurred as a result of damage from Tropical Storm Fred. This process is separate from a process that will be administered by FEMA for residents impacted by the storm.
- Staff is researching the implications of the recent Federal Covid Vaccination mandate for large employers. Once we have interpreted the regulations we will meet with our labor units to work through any necessary policy changes.

#### **B. Reports from members of Council**

- Councilor McCormick discussed that she watched the local show produced by Cayuga Community College hosted by former Mayor Cosentino and the guest on the show was City Manager Dygert. She stated the show was very informative and encouraged people to watch it.

### **Matters to Come Before Council**

#### **A. State Environmental Quality Review Act Resolutions (SEQR) - none**

#### **B. Ordinances – none**

**C. Local Laws – none**

**D. Resolutions –**

**AGREEMENT RESOLUTION #111 OF 2021**

**AUTHORIZING CHANGE ORDER #1 TO GHD FOR WATER FILTRATION PLANT IMPROVEMENTS PROJECT**

By Councilor Cuddy

November 4, 2021

**WHEREAS**, on April 22, 2021, the Auburn City Council authorized Award Resolution #51 of 2021, which awarded GHD a professional services contract to complete design services related to the slow sand filtration plant and clear well upgrades for the Water Filtration Plant Improvement Project (the “Project”) in the amount of \$345,000; and

**WHEREAS**, the City of Auburn has completed 60% design on the facility and has identified additional design elements required to properly complete the slow sand filtration plant design and clear well upgrades; and

**WHEREAS**, Change Order #1 to the agreement with GHD in the amount of \$31,700 is now required to cover additional professional services costs for design work and bidding services for the Project; and

**WHEREAS**, the cost of this Resolution is to be charged to the Water Filtration Plant Design Project capital account #HF 8330-440-JJ in the amount of \$31,700.

**NOW, THEREFORE, BE IT RESOLVED** that the Auburn City Council does hereby award Change Order #1, in the amount of \$31,700 to GHD for additional professional services related to the Project; and,

**BE IT FURTHER RESOLVED** that the cost of this Resolution shall be charged to the Water Filtration Plant Design Project capital account #HF 8330-440 JJ; and

**BE IT FURTHER RESOLVED** that the Mayor, or appointed designee, is hereby authorized to execute any and all necessary agreements and reimbursement requests on behalf of the City of Auburn for said project.

Seconded by Councilor McCormick

	Ayes	Noes	Excused
Councilor McCormick	X		
Councilor Giannettino	X		
Councilor Cuddy	X		
Councilor Locastro	X		
Mayor Quill	X		
Carried and Adopted	X		

**FINANCIAL RESOLUTION # 112 OF 2021**

**AUTHORIZING AN APPLICATION FOR NEW YORK STATE WATER INFRASTRUCTURE  
IMPROVEMENT ACT (WIIA) DRINKING WATER GRANT FUNDING**

By Councilor McCormick

November 4, 2021

**WHEREAS**, the New York State Environmental Facilities Corporation (NYS EFC) provides grants to assist municipalities in funding water quality infrastructure projects that protect or improve water quality and/ or protect public health; and

**WHEREAS**, the City of Auburn Department of Municipal Utilities is responsible for the collection, filtration and distribution of drinking water in the City and has identified a need for upgrades to the Water Filtration Plant slow-sand and rapid-sand filtration buildings; and

**WHEREAS**, the City of Auburn is submitting an application to the NYS EFC Water Infrastructure Improvement Act (WIIA) Grant Program in an effort to secure 2021 NYS Water Grant funding assistance in the amount of \$3 Million for a total estimated project cost of \$6.2 Million; and

**WHEREAS**, the City of Auburn would finance the non-grant portion of the project through the NYS EFC Drinking Water State Revolving Loan Fund and/ or municipal BANs depending on interest rates and financing costs; and

**WHEREAS**, the City of Auburn does not currently have the funding to pay for 100% of the capital upgrades at the Water Filtration Plant and it is necessary to obtain New York State funding assistance for this important water infrastructure project.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF  
AUBURN, NEW YORK:**

1. That the Mayor, or approved representative, is authorized to submit a City of Auburn Water Grant application to the NYS Environmental Facilities Corporation in the amount of \$3 Million for a total estimated project cost of \$6.2 Million; and
2. Upon award notification, that the Mayor, or approved representative, is authorized to execute the grant assistance contract, submit project documentation, and otherwise act on all matters related to the project and state assistance; and
3. That the City Comptroller is authorized to create a capital expense account, recognize grant revenue, and appropriate the funds into the correct capital project budget.
4. That this resolution shall take effect immediately upon its adoption.

Seconded by Councilor Giannettino

	Ayes	Noes	Excused
Councilor McCormick	X		
Councilor Giannettino	X		
Councilor Cuddy	X		
Councilor Locastro	X		
Mayor Quill	X		
Carried and Adopted	X		

**FINANCIAL RESOLUTION # 113 OF 2021**

**AUTHORIZING AN APPLICATION FOR NYS WATER INFRASTRUCTURE  
IMPROVEMENT ACT (WIIA) CLEAN WATER GRANT FUNDING**

By Councilor Giannettino

November 4, 2021

**WHEREAS**, the New York State Environmental Facilities Corporation (NYS EFC) provides grants to assist municipalities in funding water quality infrastructure projects that protect or improve water quality and/ or protect public health; and

**WHEREAS**, the City of Auburn Department of Municipal Utilities is responsible for the collection and treatment of sewage and storm-water runoff in the City and has identified a need for improvements and equipment for the City Wastewater Treatment Plant Biosolids Project; and

**WHEREAS**, the City of Auburn is submitting an application to the NYS EFC Water Infrastructure Improvement Act (WIIA) Grant Program in an effort to secure 2021 NYS Clean Water Grant funding assistance in the amount of \$9 Million for a total estimated project cost of \$36 Million; and

**WHEREAS**, the City of Auburn would finance the non-grant portion of the project through the NYS EFC Clean Water State Revolving Loan Fund and/ or municipal BANs depending on interest rates and financing costs; and

**WHEREAS**, the City of Auburn does not currently have the funding to pay for 100% of the capital upgrades at the Wastewater Treatment Plant and it is necessary to obtain New York State funding assistance for this important wastewater infrastructure project.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUBURN, NEW YORK:**

1. That the Mayor, or approved representative, is authorized to submit a City of Auburn WIIA Clean Water Grant application to the NYS Environmental Facilities Corporation in the amount of \$9 Million for a total estimated project cost of \$36 Million; and

2. Upon award notification, that the Mayor, or approved representative, is authorized to execute the grant assistance contract, submit project documentation, and otherwise act on all matters related to the project and state assistance; and
3. That the City Comptroller is authorized to recognize grant revenue and appropriate the funds into the Biosolids Dryer capital project account HG 8130 440 KM.
4. That this resolution shall take effect immediately upon its adoption.

Seconded by Councilor Cuddy

	Ayes	Noes	Excused
Councilor McCormick	X		
Councilor Giannettino	X		
Councilor Cuddy	X		
Councilor Locastro	X		
Mayor Quill	X		
Carried and Adopted	X		

**AGREEMENT RESOLUTION #114 OF 2021**

**AUTHORIZING A SECOND AMENDMENT TO THE SOLAR LEASE  
AGREEMENT WITH ABUNDANT SOLAR POWER, LLC**

By Councilor McCormick

November 4, 2021

**WHEREAS**, on September 5, 2019, the Auburn City Council passed Agreement Resolution #106, authorizing a Lease with Abundant Solar Power, LLC, for approximately 36 acres of land located at the City landfill for a solar array project; and

**WHEREAS**, pursuant to the terms of the Lease, Abundant agreed to pay the City an initial security deposit in the amount of one year's rent plus an initial annual rent payment of \$12,000, until the solar project became commercially operational on or about September, 9, 2021; and

**WHEREAS**, on February 18, 2021, City Council passed Agreement Resolution No. 25 of 2021, which extended the date for commercial operation of the project to December 31, 2021, as a result of delays associated with the COVID-19 pandemic, and

**WHEREAS**, Abundant now requests that the date for commercial operations be extended a second time to June 20, 2022, as a result of continued delays related to the steel industry resource constraints and weather concerns relating to concrete work; and

**WHEREAS**, Abundant proposes to pay the City an additional \$6,000 as consideration for the execution of the proposed Second Amendment, which is attached hereto and incorporated herein.

**NOW, THEREFORE, BE IT RESOLVED** that the Auburn City Council does hereby approve a Second Amendment to the Solar Lease Agreement with Abundant Solar Power, LLC, which is attached hereto and incorporated herein; and

**BE IT FURTHER RESOLVED** that the Mayor is authorized to sign any and all documents in order to carry out the purposes of this resolution.

Seconded by Councilor Cuddy

	Ayes	Noes	Excused
Councilor McCormick	X		
Councilor Giannettino	X		
Councilor Cuddy	X		
Councilor Locastro	X		
Mayor Quill	X		
Carried and Adopted	X		

**AGREEMENT RESOLUTION #115 OF 2021**

**AUTHORIZING A SETTLEMENT AND RELEASE AGREEMENT AGAINST  
NEW YORK STATE ELECTRIC & GAS CORPORATION (NYSEG)**

By Councilor Giannettino

November 4, 2021

**WHEREAS**, pursuant to New York’s General City Law Section 20-b, the City of Auburn is authorized to impose a local gross receipts tax (“Municipal Tax”) of up to 1% on NYSEG’s gross revenue from transactions originated or consummated within Auburn’s territorial limits; and

**WHEREAS**, the Parties disagree as to whether Section 20-b of the General City Law, authorize the imposition of Municipal Tax on revenue received from customers within Auburn’s territorial limits where such customers take delivery service from NYSEG but receive commodity service from a third-party provider, and whether NYSEG should have, in prior periods, been collecting the Municipal Tax from said customers and remitting the proceeds to Auburn (the “Dispute”); and

**WHEREAS**, NYSEG’s prior tariffs expressly prohibited the collection of local gross receipts tax from customers that take delivery (or transportation) service from NYSEG but receive commodity service from a third-party provider; and

**WHEREAS**, on May 17, 2019, NYSEG filed a petition proposing revisions to its tariffs to allow for the charging/collection of the Municipal Tax on transmission and delivery service related to customers who receive commodity service from third-party providers; and

**WHEREAS**, on September 19, 2019, the Public Service Commission issued an Order Approving Tariff Filings with Modifications (the “Order”), whereby the Commission approved the

proposed tariff revisions, but required deletion of the “on a prospective basis only” language contained in NYSEG’s Petition and NYSEG modified its tariff language as required by the Order; and

**WHEREAS**, Auburn had initiated an audit of NYSEG related to the Municipal Tax and/or the Dispute and as of the date hereof, that audit remains open and it is the intention of Auburn to close the audit upon the Parties’ execution of this Settlement Agreement; and

**WHEREAS**, Auburn, has engaged Computel Consultants (“Computel”) as its agent for all matters related to the Municipal Tax and the Dispute; and

**WHEREAS**, contemporaneously with this Settlement Agreement, NYSEG and NYSEG’s affiliate, Rochester Gas and Electric Corporation (“RG&E”, and together with NYSEG, the “Companies”) and Computel have entered into a separate settlement agreement (the “Computel Agreement”) whereby RG&E and/or NYSEG or another affiliate of NYSEG and RG&E shall pay a combined total of Seven Hundred Fifty Thousand Dollars (\$750,000) (the “Settlement Amount”) to Computel to fully and finally resolve and settle the Represented Municipalities’ claims for Municipal Tax on gross revenues from transactions completed prior to the date NYSEG begins collection of Municipal Tax pursuant to paragraph 7 of this Settlement Agreement; and

**WHEREAS**, RG&E and NYSEG shall each pay a share of the Settlement Amount as determined by RG&E and NYSEG in their sole discretion (the “RG&E Share” and “NYSEG Share” as applicable) and the sum of the RG&E Share and the NYSEG Share shall equal the Settlement Amount;

**WHEREAS**, pursuant to the Computel Agreement, the Companies provided Computel with percentage allocations for the Represented Municipalities, and Computel shall allocate a portion of the Settlement Amount to Auburn in accordance with those percentage allocations; and

**WHEREAS**, the amount to be apportioned to Auburn is fifty thousand dollars (\$50,000) minus a 33% Computel fee; and

**WHEREAS**, the Parties desire to settle and resolve the Dispute without resort to litigation or legal proceedings, and without admission of fault or liability; and

**WHEREAS**, the attached Settlement and Release Agreement memorializes this settlement and is attached hereto and incorporated herein.

**NOW, THEREFORE, BE IT RESOLVED** that the Auburn City Council does hereby approve the following:

- 1) A recognition by the City Comptroller of a settlement agreement reimbursement and revenue into A99.1130 in the amount of \$33,500; and

**BE IT FURTHER RESOLVED** that the Mayor is authorized to sign any and all documents in order to carry out the foregoing settlement and this Resolution.

Seconded by Councilor Locastro



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	Ayes	Noes	Excused
Councilor McCormick	X		
Councilor Giannettino	X		
Councilor Cuddy	X		
Councilor Locastro	X		
Mayor Quill	X		
Carried and Adopted	X		

**E. Staff Presentations – none**

**TABLED ITEMS – none**

**Second Public to be Heard - none**

**OTHER BUSINESS –**

Councilor McCormick made a motion to enter Executive Session, seconded by Councilor Cuddy. Council voted to enter an executive session regarding the following matters:

- One matter pertaining to potential sale, lease or acquisition of real property

The motion to enter executive session carried 5-0. The Council entered Executive Session at 5:42 p.m. Executive session adjourned at 6:30 p.m.

**ADJOURNMENT:**

By unanimous vote the Council adjourned the meeting. The meeting was adjourned at 6:31 p.m..

Minutes submitted by: Chuck Mason, City Clerk