

MINUTES OF THE
SPECIAL MEETING – CITY COUNCIL
JANUARY 2, 2007

The special meeting of the City Council of the City of Benicia was called to order by Mayor Steve Messina at 6:45 p.m. on Tuesday, January 2, 2007, in the City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

ROLL CALL:

Present: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina

Absent: None

PLEDGE OF ALLEGIANCE:

Mayor Messina led the pledge to the flag.

FUNDAMENTAL RIGHTS:

A plaque stating the Fundamental Rights of each member of the public is posted at the entrance to the Council Chambers per Section 4.04.030 of City of Benicia Ordinance No. 05-6 (Open Government Ordinance).

ANNOUNCEMENT OF CLOSED SESSION:

Lisa Wolfe, City Clerk, read the announcement of Closed Session.

OPPORTUNITY FOR PUBLIC COMMENT:

WRITTEN:

PUBLIC COMMENT:

None

CLOSED SESSION:

A. CONFERENCE WITH LABOR NEGOTIATOR

(Government Code Section 54957.6 (a))

Agency negotiators: City Manager and Human Resources Director

Employee organizations: Benicia Middle Management Group, Public Employees Union - Local 1, and Benicia Public Service Employees' Association

ADJOURNMENT:

Mayor Messina adjourned the meeting at 6:46 p.m.

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
JANUARY 2, 2007

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Steve Messina at 7:05 p.m. on Tuesday, January 2, 2007, in the City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

ROLL CALL:

Present: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina

Absent: None

PLEDGE OF ALLEGIANCE:

Mayor Messina led the pledge to the flag.

FUNDAMENTAL RIGHTS:

A plaque stating the Fundamental Rights of each member of the public is posted at the entrance to the Council Chambers per Section 4.04.030 of City of Benicia Ordinance No. 05-6 (Open Government Ordinance).

ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:

ANNOUNCEMENTS:

Action taken at Closed Session:

Ms. McLaughlin reported that Council received information from Staff.

Openings on Boards and Commissions:

- People Using Resources Efficiently (PURE) Committee:
One immediate opening
- Human Services Arts Board:
One unexpired term to June 30, 2009
- Historic Preservation Review Commission:
Two full terms to February 28, 2011

APPOINTMENTS:

Council Member Patterson commended the Mayor for making this appointment. Ms. Requist is well respected and highly qualified. She will add to the efforts of what has not been being done with the Open Government Commission.

RESOLUTION 07-01 - A RESOLUTION CONFIRMING THE MAYOR'S
APPOINTMENT OF LOIS REQUIST TO THE OPEN GOVERNMENT
COMMISSION TO AN UNEXPIRED TERM ENDING NOVEMBER 30, 2009

The above Resolution was adopted on roll call by the following vote:

Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina

Noes: None

PRESENTATIONS:

None

PROCLAMATIONS:

None

ADOPTION OF AGENDA:

Mayor Messina stated that Jim Erickson, City Manager, was ill tonight. Mr. Erickson previously requested that item IX-A be continued until the next meeting or the meeting after that.

Ms. McLaughlin stated that the City received requests from the Public Employees Union Local 1 and the Benicia Public Service Employees Association to continue those items on the agenda. Mayor Messina stated those items would be dealt with under the Consent Calendar.

On motion of Vice Mayor Schwartzman, seconded by Council Member Patterson, the Agenda was adopted as amended, on roll call by the following vote:

Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina

Noes: None

OPPORTUNITY FOR PUBLIC COMMENT:

WRITTEN:

One item received.

PUBLIC COMMENT:

1. Les Smaller – Mr. Smaller stated that he wanted to introduce himself. He is the new editor of the Benicia Herald. He has covered politics for quite some time now. He looks forward to covering the Benicia City Council.
2. John Woods – Mr. Woods stated that he could not attend the last meeting due to a cardiac incident. He requested that his item from the last meeting be continued until the second Council meeting in March. Mayor Messina stated that there was not an agenda item to continue this evening. Ms. McLaughlin stated that there was not an actual agenda item tonight, however the City Manager was aware of Mr. Woods' request and she was sure he would work with Mr. Woods on the issue. Mr. Woods asked how he could get a hearing on his item before this body.

Mayor Messina stated that when he and the City Manager spoke with Mr. Woods, they agreed to take it off this agenda and move it to a future agenda. If Mr. Woods wishes to change that, he should contact the City Manager and discuss it.

Council Member Hughes stated that at the last Council meeting, Council agreed to continue this item. Had there been discussion on this item since that time?

Mayor Messina stated that he, Mr. Woods, and the City Manager spoke and agreed to put it on a future agenda.

Council Member Patterson stated that the continuation was not to a date certain and Mr. Woods is asking for a certain date. It is appropriate that Council give direction to Staff to clarify how and when the process will be to address Mr. Woods' item. Mayor Messina stated that Mr. Erickson was going to discuss this issue in his reports from the City Manager, however he became ill.

CONSENT CALENDAR:

Council pulled items VII-A, VII-B. Items VII-D and VII-E were continued to a future Council meeting.

On motion of Council Member Patterson, seconded by Vice Mayor Schwartzman, the Consent Calendar was adopted as amended, on roll call by the following vote:
Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina
Noes: None

RESOLUTION 07-02 - A RESOLUTION APPROVING THE JULY 1, 2006 TO JUNE 30, 2010 AMENDMENTS TO THE LABOR AGREEMENT WITH THE BENICIA MIDDLE MANAGEMENT GROUP:

RESOLUTION 07-03 - A RESOLUTION AUTHORIZING THE PURCHASE OF FOUR (4) POLICE PATROL VEHICLES AND ONE (1) POLICE UTILITY TRUCK UTILIZING VEHICLE REPLACEMENT FUNDS

Approval to waive the reading of all ordinances introduced and adopted pursuant to this agenda.

(END OF CONSENT CALENDAR)

Council took the following actions:

Introduction and first reading of ordinances to make minor changes to Title 4 (Open Government):

Council Member Patterson stated that to be consistent, she wanted to pull this item so she could vote against it. There were some issues with having meetings in a timely fashion so that citizens could attend.

Council Member Hughes stated that on page VII-A-7 – he is not sure if the wording is correct. This should refer to the voting requirement for urgent matters. There are three areas that have this language that need to be corrected.

AN ORDINANCE AMENDING SUBSECTION B OF SECTION 4.08.040 (CONDUCT OF BUSINESS – TIME AND PLACE FOR MEETING) OF CHAPTER 4.08 (PUBLIC ACCESS TO MEETINGS) OF TITLE 4 (OPEN GOVERNMENT) OF THE BENICIA MUNICIPAL CODE TO CLARIFY THE APPLICATION TO MEETINGS WITH OTHER AGENCIES SUCH AS SCHOOL DISTRICTS

On motion of Council Member Whitney, seconded by Vice Mayor Schwartzman, the above Introduction and First Reading of an Ordinance was adopted as amended, on roll call by the following vote:

Ayes: Council Members Hughes, Schwartzman, Whitney, and Mayor Messina

Noes: Council Member Patterson

Second reading of an ordinance adding a new Chapter 1.36 (Voluntary Code of Fair Campaign Practices) to Title 1 (General Provisions) of the Benicia Municipal Code:

Council Member Patterson stated that she received a communication from Ms. Norma Fox that made her rethink her vote. The intent of the ordinance was to address the concern that the community discussed at the League of Women Voters' conversation about misinformation that was mailed by other independent committees and not the candidates. She reported that called her to say that she would be looking at Contra Costa's ordinance, and there were provisions in it to address these independent committees. Ms. Fox submitted a revised ordinance for Council's view (hard copy of email on file). Council Member Patterson's sense was that Council was in agreement that it is trying to fix something. Council should take some time to fix this ordinance. In the rush of the holiday season and being preoccupied with some other serious issues, Council may not have been as diligent in reviewing this. She was not able to review it as thoroughly as needed - as she was working on the other reporting ordinance. She had looked at Contra Costa's ordinance and thought this one was similar. She did not pick up on what was left out of it. The one that Council voted on was from the State statute, not Contra Costa. It does not have the provisions that Contra Costa put in that address the PACS, organizations, and independent groups. Since Council has had a first reading on this, it would have to be sent back if major changes were made. It was her understanding that Council could not take action on this with amendments. Ms. McLaughlin stated that was correct. The changes that were proposed are too big to have it go forward with a second reading. However, Council could do a first reading on the changes tonight or reschedule it for a first reading. Council Member Patterson stated that Council was concerned that this be done in a timely fashion so that it applies prior to the beginning of the campaign for the November 2007 election. She believed that if the changes were made and brought back to Council at the next meeting, Council could act on it in a timely fashion, possibly at the first Council meeting in February.

Vice Mayor Schwartzman asked what the main changes were. Council Member Patterson stated that there was a specific reference to the independent groups or PACS, who could sign this. Ms. McLaughlin stated that to her recollection, on the email from Ms. Fox (hard copy on file), on pages four and five is where most of the new stuff/changes are. Also, on page 2 of 5 there is a section regarding sending out mailings. Ms. McLaughlin reviewed the changes, but clarified that all of the changes were difficult to read in the format that the email was in. She stated that Staff could bring the changes forward in a more traditional format with the red line/strikethrough that Council was more familiar with.

Council Member Whitney stated that at this time, he was not inclined to accept Ms. Fox's changes. Council could come back after a workshop and add language if it is necessary.

Vice Mayor Schwartzman discussed some of Ms. Fox's changes. He understands the points on independent expenditures. He was hoping the City could adopt language that pertains to independent expenditure groups as well. He was open to the change #6 on page 5.

Mayor Messina stated that he was uncomfortable making changes to the language without the City's hired experts present. He was comfortable with what was currently drafted. He does not want to make last minute changes without running them past the experts.

Council Member Patterson stated that there was a fundamental lack of communication on this. The public feels that they have not been participating in a robust dialogue on this issue. The feelings is that they are sitting in an audience and being talked at, not talking with Staff and Council. Given the time of year that this was brought up, a lot of attention to detail was lacking. Regarding the specifics on the first change – it is critical that we send out a message that last minute mailings are not acceptable. She agreed that there should be further discussion on some elements of Ms. Fox's proposed changes. She had asked the City Attorney to do some research and see if there was anything that was legally flawed in Contra Costa's ordinance. This proposed ordinance is more than what Contra Costa has. She would like to see at least a good chance to come back at the next or following meeting with the suggested changes, staff recommendations and comments, etc.

Public Comment:

1. Norma Fox – Ms. Fox stated that the ordinance presented tonight does not address the independent expenditure committees, which is where the damage came from in the last election. Council Member Patterson asked Ms. Fox to point out the things in her proposed changes to the ordinance that were different than the City's proposed ordinance. Ms. Fox listed item by item the proposed changes (in the email – hard copy on file.) Ms. Fox stated that most of her proposed changes were taken from the Contra Costa ordinance.

Council Member Hughes clarified that some of the changes were taken from Contra Costa's ordinance and some were Ms. Fox's personal preferences.

Council Member Whitney stated that there was a motion and a second and he would like Council to take a vote.

Council Member Patterson prefaced her vote stating she pledged that Council would address the suggested changes at the next workshop and make the amendments.

ORDINANCE 07-01 - AN ORDINANCE ADDING A NEW CHAPTER 1.36 (VOLUNTARY CODE OF FAIR CAMPAIGN PRACTICES) TO TITLE 1 (GENERAL PROVISIONS) OF THE BENICIA MUNICIPAL CODE

On motion of Council Member Whitney, seconded by Vice Mayor Schwartzman, the above Ordinance was adopted, on roll call by the following vote:

Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina

Noes: None

Approval of the July 1, 2006 to June 30, 2010 Memorandum of Understanding with the Public Employees Union, Local 1:

Continued

Approval of the July 1, 2006 to June 30, 2011 amendments to the Memorandum of Understanding with the Benicia Public Service Employees' Association:

Continued

PUBLIC HEARINGS:

None

ACTION ITEMS:

None

INFORMATIONAL ITEMS:

Reports from City Manager:

Review of 2007 City Council Policy Calendar:

Continued

COMMENTS FROM COUNCIL MEMBERS:

Mayor Messina stated that on Council's policy calendar, it would be reviewing some of its policies and procedures. He suggested these two agenda items be discussed at that time.

Consideration of whether an individual should be permitted to serve on more than one City board and/or commission – Continued from December 19, 2006 City Council Meeting:

Vice Mayor Schwartzman stated that this issue came up recently regarding a recent appointment that was made. After he thought about it, he thought it would be prudent for Council to think about discussing this issue. It is not impossible to see an individual that could be on all boards and commissions. That would have the potential of concentrating influence or giving power to one individual that is not elected. This is not to say that there is an issue right now, he would just like to be proactive.

Council Member Patterson commended Vice Mayor Schwartzman for bringing this issue forward. She asked if this were put into policy, would it be included in the study session on procedures. She regrets Council is not adopting a more comprehensive way of dealing with appointments such as the way the Town of Danville has done.

On motion of Council Member Patterson, seconded by Vice Mayor Schwartzman, Council agreed to agendize this issue on a future agenda, on roll call by the following vote:

Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina
Noes: None

Consideration of Council Member attendance and participation at City Board and Commission meetings:

Council Member Whitney stated that he would like the opportunity to have this issue, as well as other issues that were brought up by the City Manager, discussed by Council. He was comfortable having this discussion at the upcoming study session on Council procedures.

Council Member Patterson clarified that there should be a Staff report that would take a look at other jurisdictions to find out what their operating procedures were for any number of rules and procedures.

Vice Mayor Schwartzman asked how much time it took the City Manager to put together the information on this item. He wanted to make sure the 15-minute rule was applied. Mayor Messina stated that the City Manager could deem, on his own accord, whether something is important enough to go before Council and exceed the rule. That is his decision.

On motion of Council Member Whitney, seconded by Council Member Hughes, Council agreed to agendize this issue an upcoming agenda, on roll call by the following vote:

Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina
Noes: None

ADJOURNMENT:

Mayor Messina adjourned the meeting at 7:49 p.m.

Lisa Wolfe, City Clerk