

MINUTES OF THE
SPECIAL MEETING – CITY COUNCIL
JANUARY 6, 2009

The special meeting of the City Council of the City of Benicia was called to order by Mayor Elizabeth Patterson at 6:30 p.m. on Tuesday, January 6, 2009 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, Ioakimedes, Schwartzman, and Mayor Patterson

Absent: Vice Mayor Campbell (arrived immediately after roll call)

PLEDGE OF ALLEGIANCE:

Mayor Patterson 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).

OPPORTUNITY FOR PUBLIC COMMENT:

WRITTEN COMMENT:

None

PUBLIC COMMENT:

None

ANNOUNCEMENT OF CLOSED SESSION:

Heather McLaughlin read the announcement of Closed Session.

CLOSED SESSION:

**A. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Subdivision (a) of Government Code Section 54956.9)**

Name of case: City of Benicia vs. Nationwide Auto Auction et al.

ADJOURNMENT:

Mayor Patterson adjourned the meeting to Closed Session at 6:31 p.m.

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
JANUARY 6, 2009

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Elizabeth Patterson at 7:00 p.m. on Tuesday, January 6, 2009 in the City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

ROLL CALL:

Present: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor Patterson

Absent: None

PLEDGE OF ALLEGIANCE:

Lisa Wolfe 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:

Announcement of action taken at Closed Session:

Heather McLaughlin, City Attorney, reported that Council requested more information from Staff.

Openings on Boards and Commissions:

- Sky Valley Open Space Committee:
One unexpired term to September 30, 2010
One full term to January 31, 2013
- Civil Service Commission
One full term to January 31, 2012
- Planning Commission
Two full terms to January 31, 2013
- Open Government Commission
One full term to January 31, 2013
- Library Board of Trustees
Two full terms to January 31, 2012
- Finance, Audit and Budget Committee
One full term to January 31, 2011
Two full terms to January 31, 2013

Recognition of Benicia Rotary Club's donation for purchase of new flags for First Street:
Mayor Patterson thanked the Rotary Club for its donation of the flags.

Mayor's Office Hours:

Mayor Patterson will maintain an open office every Monday (except holidays) in the Mayor's Office of City Hall from 6:00 p.m. to 7:00 p.m. No appointment is necessary. Other meeting times may be scheduled through the City Hall office at 746-4210 or by email acardwell@ci.benicia.ca.us.

APPOINTMENTS:

None

PRESENTATIONS:

Sonoma Mountain Village Presentation:

Ms. Kirstie Moore, Coddling Enterprises, reviewed a PowerPoint presentation titled 'Developing a One Planet Community' (hard copy on file).

PROCLAMATIONS:

- Recognition of Harry Wassmann, Curator Emeritus of the Benicia Historical Museum

ADOPTION OF AGENDA:

Jim Erickson, City Manager, stated that the applicant for Consent Calendar Item (f) could not attend tonight's meeting. They requested the item be delayed for at least two weeks.

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

Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor Patterson

Noes: None

OPPORTUNITY FOR PUBLIC COMMENT:

WRITTEN:

One item submitted (copy on file).

PUBLIC COMMENT:

1. Ann Hansen, Benicia Historical Museum – Ms. Hansen thanked City Staff for their assistance with the sewage problems at the Museum. She discussed the Museum's charter membership in 'Heritage Travel.' She announced upcoming events at the museum.
2. Ricardo Giordano – Mr. Giordano discussed the 'Who Named America' contest. He presented the Council with a flag, pin, and various informational fliers.
3. Marilyn Bardet – Ms. Bardet spoke in honor of Mr. Wassmann. She discussed the specific plan for the Lower Arsenal. She suggested putting Mr. Wassmann's name on the memorial park at the Arsenal Ridge if it ever comes to fruition.
4. John Van Landschoot – Mr. Van Landschoot discussed who named America. He discussed a recent magazine article that recognized Benicia.

CONSENT CALENDAR:

Council pulled items VII-C and VII-E. Item VII-F was continued per discussion under the adoption of the agenda.

On motion of Council Member Hughes, seconded by Council Member Schwartzman, the Consent Calendar was adopted as amended, on roll call by the following vote:

Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor Patterson

Noes: None

Council approved the Minutes of December 16, 2008.

ORDINANCE 09-01 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING CHAPTER 5.44 (ADULT BUSINESSES) AND ADDING CHAPTERS 5.45 AND 5.46 (ADULT BUSINESS PERFORMER LICENSE AND BACKGROUND CHECK FOR NON-PERFORMERS) REGULATING THE LICENSING PROVISIONS AND OPERATIONAL STANDARDS FOR ADULT BUSINESSES AND ADULT PERFORMERS AND NON-PERFORMERS OF TITLE 5 (BUSINESS TAXES, LICENSES AND REGULATIONS) AND AMENDING CHAPTER 17.28 (COMMERCIAL DISTRICTS) AND CHAPTER 17.32 (INDUSTRIAL DISTRICTS) AND ADDING CHAPTER 17.102 (ADULT BUSINESSES) TO TITLE 17 (ZONING) TO REGULATE ZONING REQUIREMENTS FOR ADULT BUSINESSES TO THE BENICIA MUNICIPAL CODE

ORDINANCE 09- - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING SECTION 5.46.020 AND SUBSECTION 5.46.030 (A) OF CHAPTER 5.46 (ADULT BUSINESS PERFORMER LICENSE AND BACKGROUND CHECK FOR NON-PERFORMERS) OF TITLE 5 (BUSINESS TAXES, LICENSES AND REGULATIONS) OF THE BENICIA MUNICIPAL CODE REGARDING APPLICATION AND LICENSE FEES

ORDINANCE 09- - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA REPEALING ORDINANCE NO. 07-17, AN URGENCY INTERIM ORDINANCE, EXTENDING ORDINANCE NO. 07-14, AN URGENCY INTERIM ORDINANCE APPROVING AN INTERIM ZONING MORATORIUM ON THE ESTABLISHMENT OF NEW ADULT ENTERTAINMENT BUSINESSES IN THE CITY OF BENICIA AND ADOPTING FINDINGS INCLUDING ENVIRONMENTAL FINDINGS AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN

RESOLUTION 09-01 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING THE MASTER FEE SCHEDULE TO INCLUDE FEES FOR APPLICATIONS, ANNUAL LICENSING OF ADULT BUSINESSES, ADULT BUSINESS PERFORMERS AND NON-PERFORMERS

Council accepted the Investment Report for the quarter ended September 2008.

Council adopted the 2009 City Council Regular Meeting Calendar.

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

(END OF CONSENT CALENDAR)

Council took the following actions:

Denial of an application for a new card room permit for the PASTIME:

This item was continued to a future meeting at the request of the applicant. Ms. McLaughlin noted that Vice Mayor Campbell would have a conflict of interest with this item, as he owns property within 500 ft.

Foreclosed or Vacant Properties: 1) Adopt an ordinance to require maintenance and registration of neglected, vacant, and foreclosed properties; and 2) Adopt an ordinance providing for an administrative hearing for contesting the fines, penalties and orders for foreclosed or vacant buildings:

Heather McLaughlin, City Attorney, discussed Council's requested changes, which Staff agreed with. Because the ordinance already requires registration of the property, it is not necessary or prudent to post a sign on the property stating that the property is vacant or foreclosed. She suggested deleting paragraph (h) on page VII-C-7. The mayor has asked that the findings requirement be beefed up. Ms. McLaughlin suggested adding a second sentence so that the paragraph on VII-C-14 would read: 'The hearing officer shall make findings based upon the record of the hearing and issue a written decision based upon the findings within 15 business days of the hearing. The findings shall include: 1) findings of facts, 2) a determination whether or not a violation of specific code section or sections has occurred based upon the findings of fact, 3) whether proper notice has been given in compliance with the code, and 4) if a violation has occurred, what are the appropriate costs or penalties.

Ms. McLaughlin noted that the State was working fast and furious on a registration foreclosure law. A copy was sent to the City for review and consideration. The City's ordinance would be effective 30 days after the second reading. Depending on when the State's takes effect, the City's ordinance may or not be in effect for very long. It is a good idea to have it on the books, as it gives the City a tool to work with.

ORDINANCE 09-02 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA ADDING CHAPTER 8.50 (MAINTENANCE AND REGISTRATION OF NEGLECTED, VACANT AND FORECLOSED PROPERTIES) TO TITLE 8 (HEALTH AND SAFETY) OF THE BENICIA MUNICIPAL CODE

On motion of Council Member Schwartzman, seconded by Council Member Hughes, the above Ordinance was adopted as amended, on roll call by the following vote
Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor Patterson
Noes: None

ORDINANCE 09-03 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA ADDING CHAPTER 8.54 (ADMINISTRATIVE HEARINGS) TO TITLE 8 (HEALTH AND SAFETY) OF THE BENICIA MUNICIPAL CODE

On motion of Council Member Schwartzman, seconded by Council Member Hughes, the above Ordinance was adopted as amended, on roll call by the following vote:

Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor
Patterson
Noes: None

Approval of proposed gateway locations for STA I-80/680/780 Corridor Operations Study:

Dan Schiada, Public Works Director, reviewed the staff report.

Council and Staff discussed the tree planting program, adding an additional gateway treatment at East Second interchange, the Caltrans corporation yard, having something done about the easement in front of Pappas Restaurant, and adding the East Second Street gateway to the study.

On motion of Council Member Schwartzman, seconded by Vice Mayor Campbell, Council recommended that the Solano Transportation Authority (STA) Board incorporate the highway gateway locations as proposed in the STA's I-80/680/780 Highway Corridor Operations Implementation Study as amended, on roll call by the following vote:

Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor
Patterson

Noes: None

PUBLIC HEARINGS:

None

ACTION ITEMS:

Campaign Ordinances – regulation of local elections including limitations on expenditures and contributions or other methods:

Heather McLaughlin, City Attorney, reviewed the Staff report.

Vice Mayor Campbell discussed campaign finance statistics in Benicia, Political Action Committees (PAC's), what other cities are doing regarding campaign finance ordinances.

Vice Mayor Campbell and Mayor Patterson discussed guiding principles, contribution limits, recusal, lenders and sub-lenders, identification of contributors, enforcement, including penalties in the ordinance, PAC's, and disclosure for PAC's including requiring them to put down the top 5 contributors.

Council Member Hughes discussed previous efforts regarding campaign expenditure and contribution limits, how limits affect incumbents, independent expenditure committees, providing better reporting and disclosure, previous advice from Steve Churchwell (consultant) regarding making changes to what has been done by the FPPC.

Council Member Campbell discussed expenditure trends, a previous article written regarding incumbents, and the increase in out-of-town money for local campaigns.

Council Member Schwartzman discussed the increase in out-of-town money, candidate's having out-of-town contacts, support of listing the top five contributors, and language regarding 'not authorized by candidate' on mailers.

Vice Mayor Campbell discussed disclosures on issue mailers, listing top five contributors and how much they spent, and having there be less mailers that are more efficient.

Council Member Hughes discussed the issue of independent expenditure committees contributing the most to candidates who did not win the election, and giving the citizens credit to make their own decisions.

Vice Mayor Campbell discussed various contribution limit options.

Council Member Schwartzman discussed the issue of candidates taking loans from individuals.

Public Comment:

1. Jackie Klare – Ms. Klare suggested having a sub-committee to discuss various campaign finance issues. She spoke in support of Staff preparing an ordinance providing for campaign expenditure and contribution limits.
2. Marilyn Bardet – Ms. Bardet spoke in support of a sub-committee and in support of Staff preparing an ordinance providing for campaign expenditure and contribution limits.
3. Jon Van Landschoot – Mr. Van Landschoot submitted and discussed a handout titled 'Campaign Expenditure Limits: Myths and Realities.' He spoke in support of Staff preparing an ordinance providing for campaign expenditure and contribution limits.
4. Mary Magill – Ms. Magill spoke in support of Staff preparing an ordinance providing for campaign expenditure and contribution limits.
5. Norma Fox – Ms. Fox discussed the issue of fewer people running for elections because they can't afford to run. She spoke in support of Staff preparing an ordinance providing for campaign expenditure and contribution limits.
6. Bob Craft – Mr. Craft spoke in support of Staff preparing an ordinance providing for campaign expenditure and contribution limits.
7. Ken Palk – Mr. Palk discussed not supporting campaign limits and his support for full disclosure of all money going into candidate's campaigns.

Mayor Patterson discussed what the community was asking for regarding campaign expenditure and contribution limits, guiding principles, looking at disclosure in a much broader way than the FPPC, increasing voter education, Council's option to give direction to Staff to look at current ordinance, and the possibility of an initiative addressing campaign expenditure and contribution limits going on the upcoming ballot.

Council Member Ioakimedes discussed how he ran his campaign, the need for the public to depend on and trust its elected officials, the issue of 'single shots', how people can circumvent the system, the need for clear and open disclosure, and the need for an informed and engaged electorate.

Council Member Hughes discussed the fact that he was hearing that the biggest issue was the amount of money the independent expenditure committees were raising, and support for improving disclosure for candidates and Independent Expenditure Committees.

Vice Mayor Campbell inquired about Council Member Ioakimedes' concerns regarding outside expenditures on local campaigns, information on mailers sent out by PAC's distorting the facts, and the issue of candidates hiring consultants to run their campaigns.

Mayor Patterson discussed the efforts for campaign reform at the State level, the need to address the campaign expenditure and contribution limits, how she ran her campaign, the need for disclosure, the need to look at campaign contribution limits, and the need to increase voter education.

Council discussed its unanimous agreement on giving direction to Staff to beef up the issue of disclosure. All Council Members could also send individual suggestions to the City Attorney for review.

Vice Mayor Campbell discussed concerns regarding disclosure, how to address campaign mailers and literature, the need to look at the key contributors to outside PAC's, increasing font size on mailers, the need to see 'approved by' on the mailers, addressing late reporting, discussions he had with the auditors during the audit conducted by the Board of Equalization, and disclosure for consultants.

Mayor Patterson stated that there was consensus among the Council for Staff to beef up the disclosures, wanting the public to have an opportunity to comment on the issue (they could email Staff with their comments by the end business on 1/16/09), and increasing voter education.

Vice Mayor Campbell discussed his thoughts regarding contribution and expenditure limits. He would like to follow the City of Oakland's ordinance on campaign contribution limits, which is a two-tiered system. The only thing you can do with the PAC's is address disclosure. Council Members Ioakimedes, Schwartzman, and Hughes did not support following Oakland's ordinance.

Vice Mayor Campbell inquired whether Council would support following any other city's contribution limit ordinance. Council Members Ioakimedes, Schwartzman, and Hughes did not support the suggestion. Vice Mayor Campbell stated that he City might need to look at other means of getting the contribution and spending limits in Benicia.

Garbage franchise renewal process including green waste, recycling and street sweeping: Heather McLaughlin, City Attorney, reviewed the staff report. There was an error in the report. The report stated that the Garbage Franchise Agreement expires in February 2010. The agreement does not expire until 2012.

Council and Staff discussed the ability or lack of ability to renegotiate the franchise agreement due to the merger, the fact that there is time to look into this issue, the need for a state-of-the-art agreement that will allow the City to negotiate with its existing

franchisee or go out to bid, looking into whether or not the City should seek bids or renegotiate the agreement, the need for a franchise agreement, seeking outside assistance to assist Staff in looking into this issue, and talking to other cities that do their own garbage service.

Mayor Patterson gave direction to Staff to continue talking to other communities, and during the budget process, Staff should have a cost for the consultant and timeline.

Public Comment:

1. Tim Argenta, Allied Waste – Mr. Argenta discussed his willingness to work with Staff on this issue, areas that could be looked at to enhance the current contract.

INFORMATIONAL ITEMS:

Reports from City Manager:

Results of the 2008 National Citizen Survey:

Anne Cardwell, Administrative Services Director, reviewed the staff report and a PowerPoint presentation (copy on file).

Council and Staff discussed looking for ways to formally recognize employees, improving the aesthetics of the display case outside Council Chambers, using the website to recognize employees, utilizing the model or format of the survey in other ways to solicit feedback, clarification that it was an anonymous survey, demographics, ensuring more sectors of the community are surveyed in the future, and the need to get at a greater strategy for transit needs, retail shopping, employment opportunities, matching jobs to the City's demographic, and the availability of quality affordable housing.

COUNCIL MEMBER REPORTS:

None

ADJOURNMENT:

Mayor Patterson adjourned the meeting at 10:03 p.m.

Lisa Wolfe, City Clerk