

MINUTES OF THE
SPECIAL MEETING – CITY COUNCIL
JANUARY 15, 2008

The special meeting of the City Council of the City of Benicia was called to order by Mayor Elizabeth Patterson at 6:01 p.m. on Tuesday, January 15, 2008, 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:

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:

1. Steve Goetz – Mr. Goetz discussed the Benicia Business Park Project, Benicia First, and a public forum that was held in October 2007. He submitted two separate petitions regarding the Benicia Business Park (on file).
2. Jerome Page, Benicia First – Mr. Page spoke in opposition of the proposed Benicia Business Park. Benicia First would like to present alternatives to Council and the Community with regards to criteria for the project.
3. Kristina Lawson of Miller, Starr, Regalia Law Firm – On behalf of her client, Discovery Builders, Ms. Lawson requested Council schedule a hearing for certification of the EIR that was prepared for the Benicia Business Park project. Discovery Builders' presence tonight to request a hearing was not a waiver of their right to challenge the closed session that Council was holding.
4. Marilyn Bardet – Ms. Bardet discussed the proposed Benicia Business Park. Benicia First would like to introduce some ideas to help guide the development of the property.

ANNOUNCEMENT OF CLOSED SESSION:

Lisa Wolfe, City Clerk, 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 claim: King Solomon Church

B. CONFERENCE WITH LEGAL COUNSEL -EXISTING LITIGATION

(Subdivision (a) of Government Code Section 54956.9)

Name of case: City of Benicia v. Nationwide

C. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9

Number of potential cases: 1 - Discovery Builders

Ms. McLaughlin reminded Council that the City had at least two threats of litigation by the attorneys for Discovery Builders if the City does not schedule a hearing for the certification of the EIR soon. That is why Council and Staff were meeting in Closed Session to discuss the issue.

Vice Mayor Campbell asked if some sort of presentation would get the ball rolling. Mr. Erickson stated that he and the Mayor would review the next agenda in the next week to week and a half. Depending on what else is on the agenda and Council's views, they would consider scheduling a presentation.

ADJOURNMENT:

Mayor Patterson adjourned the meeting at 6:14 p.m.

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
JANUARY 15, 2008

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Elizabeth Patterson at 7:01 p.m. on Tuesday, January 15, 2008, 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:

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).

ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:

ANNOUNCEMENTS:

Announcement of Action taken in Closed Session:

Item A – Council gave direction unanimously to settle the claim.

Item B – Council gave direction to settle case with a 4-1 vote.

Item C – Council gave direction to Staff to schedule the EIR for certification on February 19, 2008.

PUBLIC COMMENT:

1. Ann Hansen – Ms. Hansen discussed the recent power outage at the Benicia Historical Museum. She thanked staff for their efforts. She announced various upcoming events at the museum.

Openings on Boards and Commissions:

- Sky Valley Open Space Committee:
Two unexpired terms to September 30, 2010
- Open Government Commission:
One full term to November 30, 2011
- Historic Preservation Review Commission
Two full terms to February 28, 2011

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:

RESOLUTION 08-01- A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF GEORGE DELACRUZ TO THE OPEN GOVERNMENT COMMISSION TO A FULL TERM ENDING NOVEMBER 30, 2011

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

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

Noes: None

PRESENTATIONS:

None

PROCLAMATIONS:

None

ADOPTION OF AGENDA:

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

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

Noes: None

OPPORTUNITY FOR PUBLIC COMMENT:

WRITTEN:

PUBLIC COMMENT:

1. Bill Royal – Mr. Royal discussed his disappointment with his issue not being placed on the agenda, as he previously requested. He cannot refinance his property unless the City removes the lien. His house will go into foreclosure in a week and a half unless he is able to refinance. He requested that his issue be placed on the next Council agenda.

Mr. Erickson stated that Mr. Royal provided Staff with information on his issue on Friday. Staff will evaluate the information and make a recommendation to Council. Council could direct Staff to place an item on the agenda if it wishes. The lien is on the property because the property owner filed suit against the City for damages. The claim was basically found lacking merit, and the City was awarded the settlement, which resulted in the lien being placed on the property.

2. Linda Lewis – Ms. Lewis discussed an ongoing problem with seepage in the street at her property. She asked for Council's help in getting the ongoing problem resolved. She has been dealing with the problem since 2000.

Council suggested Staff work with Ms. Lewis to try and get the issue resolved. If the issue could not be resolved at Staff level, Staff should bring the issue back to Council.

3. Jon Van Landschoot – Mr. Van Landschoot discussed the issue of the Governor of California’s recommendation to close the State Park and the State Capitol building, how it would affect the City possibly being branded as a historical town. He urged Council to find a way to keep the building open.

Council and Staff discussed possibly doing some groundwork to find out how much it costs to maintain the State Capitol building at various levels, setting up a meeting with the Director of the State Parks and Recreation, and the fact that the City had notified the Governor’s office that it did not want to see the State Park or the State Capitol building closed.

4. Dana Dean – Ms. Dean spoke in support of keeping the Benicia State Park and the State Capitol building open.
5. J.B. Davis – Mr. Davis spoke in support of keeping the Benicia State Park and the State Capitol building open.
6. Rick Ernst – Mr. Ernst requested that wireless Internet be installed at Benicia City Hall.

Mr. Sousa stated that there were security concerns as well as the fact that it would be very expensive to install wireless Internet at City Hall. At the present times, there are no funds available for such a project.

CONSENT CALENDAR:

Council pulled item VII-A.

RESOLUTION 08-02 - A RESOLUTION AUTHORIZING THE PURCHASE OF TWO REPLACEMENT BACKWASH PUMP SYSTEMS FOR THE WATER TREATMENT PLANT FROM G3 ENGINEERING, INC. IN THE AMOUNT OF \$26,315.47

On motion of Council Member Schwartzman, seconded by Council Member Hughes, 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

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

(END OF CONSENT CALENDAR)

Council took the following actions:

Approval of minutes of November 27, 2007, December 6, 2007, and December 18, 2007:

Council Members Campbell and Ioakimedes were not on the Council at the November 27, 2007 meeting.

On motion of Council Member Schwartzman, seconded by Council Member Hughes, Council approved the minutes of November 07, 2007, on roll call by the following vote:
Ayes: Council Members Hughes, Schwartzman, and Mayor Patterson
Noes: None
Abstain: Council Members Campbell and Ioakimedes

On motion of Council Member Schwartzman, seconded by Council Member Hughes, Council approved the minutes of December 6, 2007 and December 18, 2007, on roll call by the following vote:
Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor Patterson
Noes: None

PUBLIC HEARINGS:
None

ACTION ITEMS:
Review of Water Purchase Opportunity with Solano Irrigation District:
Dan Schiada, Public Works Director, reviewed the staff report.

Council and Staff discussed the Mojave Agreement, issue of the one-time payment, possibly negotiating a payment schedule over 5 or 10 years, cost benefit, Valero VIP project, possible savings on the blending process, reliability of water availability being significantly higher, the need to have strategies to pay for the water purchase, storage and entitlement, and the need to have a broader portfolio for water resources.

On motion of Council Member Schwartzman, seconded by Vice Mayor Campbell, Council directed Staff to proceed with its efforts to potentially purchase Solano Project water from Solano Irrigation District, on roll call by the following vote:
Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman, and Mayor Patterson
Noes: None

Authorize developer Request for Qualifications and beginning of community involvement process for the City-owned E Street lot:
Council Member Schwartzman recused himself from discussion on this item due to a conflict of interest.

Amalia Lorentz, Economic Development Manager, reviewed the staff report. Since the draft Request for Qualifications (RFQ) was sent out last week, some comments have come up that she would like to incorporate in the document such as 1) adding a statement that the property is located within the Downtown Historic Conservation District, 2) a statement that the property has a drainage channel on site that needs environmental analysis, 3) emphasizing the neighborhood's role in the community process. She stated that the City might also wish to add a statement that interested developers are requested

not to contact the Council directly while the RFQ is open. The recommendation is to start the ball rolling on the Downtown Master Plan.

Council and Staff discussed the current zoning in the area, characterizing the site as a ‘sensitive drainage site’, the potential for the site being used as a small performing arts center, and the need for more detailed minutes going to the applicant for consideration.

Public Comment:

1. Lee Syracuse – Mr. Syracuse discussed the property’s history. He emphasized the importance of keeping the property as public parking for First Street as well as the need to landscape the parking lot.
2. Jon Van Landschoot – Mr. Van Landschoot discussed the need for community outreach with regards to this issue.
3. Sandra Shannonhouse – Ms. Shannonhouse encouraged Council to investigate how the lot was filled, why it was filled, etc. She hoped Council would keep historic preservation in mind when proceeding with the lot.
4. Cory Stanhope – Mr. Stanhope discussed keeping the lot as open space.
5. Joe Kearns – Mr. Kearns spoke in opposition to giving the lot away to developers.

On motion of Council Member Hughes, seconded by Vice Mayor Campbell, Council directed Staff to issue a Request for Qualifications for a development partner, who will lead the community involvement process, for the City-owned E Street lot, including the additional language suggested by Ms. Lorentz, on roll call by the following vote:

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

Noes: None

Abstain: Council Member Schwartzman

Amendment of Resolution No. 07-103 approving the Benicia Views (“Raffanti Project”) tentative subdivision map (East H and East I Streets east of East Sixth Street) to augment buffer language:

Heather McLaughlin, City Attorney, reviewed the staff report. She stated that one of the property owners had been difficult to reach, and that she would like to make the Resolution contingent upon all of the parties signing off on the agreement.

Council and Staff discussed the current zoning, legal ramifications for the surrounding areas not covered by the agreement, creating two classes of property owners, noise, tiered alternative dispute resolution process, easement dispute resolution, the fact that the residents were there first, possible residual effects from the agreement, whether or not the City could condition a project on Amports’ property, previous changes to the property’s zoning, the need to be conscious of a better planning process, and the community’s perception of Amports.

Public Comment:

1. Dana Dean – Ms. Dean stated that filing the lawsuit was a function of preserving the statute. She thanked everyone involved in the process. She urged Council to look at this particular property, in this particular project, and move forward.

2. Dan Raffanti – Mr. Raffanti asked Ms. McLaughlin to clarify the covenants in the agreement.

Ms. McLaughlin clarified that she was responsible for providing advice to Council and not the developers. She clarified the covenants in question.

3. Jim Pucci – Mr. Pucci discussed loud noises that were coming from the Amports parking lot and Amports' lack of respect for its neighbors.
4. Eric Hogan – Mr. Hogan discussed the issue of onerous concessions being made for a select number of neighbors in the area.
5. Sandra Shannonhouse – Ms. Shannonhouse urged Council stop waffling and to take a stance with Amports.
6. Citizen – The citizen discussed Amports' behavior. Amports should behave as the citizens want them to behave. The citizens should not behave as Amports wants them to.
7. J.B. Davis – Mr. Davis discussed Amports and the future of the City and the port.

RESOLUTION 08-03 - A RESOLUTION AMENDING RESOLUTION NO. 07-103 WHICH APPROVED THE "YUBA HEIGHTS" TENTATIVE SUBDIVISION MAP FOR THE SUBDIVISION OF FOUR VACANT RESIDENTIAL PARCELS INTO SEVEN RESIDENTIAL PARCELS LOCATED ON EAST H AND EAST I STREETS EAST OF EAST SIXTH STREET, AND ADOPTING THE INITIAL STUDY/ MITIGATED NEGATIVE DECLARATION FOR THE PROPOSED SUBDIVISION

Council Member Hughes stated that he would make a motion to approve the Resolution with the amendment to Finding J, contingent upon all parties signing off on the agreement.

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

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

Noes: None

ACTION ITEM:

Clarification of City Council direction regarding the commitment for a new skate park south of Highway 780:

Jim Erickson, City Manager, introduced the item.

Council and Staff discussed the need to cleanly separate this and the next agenda item in its discussions. It was suggested Council hear Item X-A prior to hearing item IX-D so the discussions could be cleanly separated.

On motion of Council Member Schwartzman, seconded by Council Member Ioakimedes, Council agreed to hear X-A prior to item IX-D, on roll call by the following vote:

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

Noes: None

COMMENTS FROM COUNCIL MEMBERS:
Request to reconsider Willow Glenn Skate Park:

Public Comment:

1. Cory Stanhope – Mr. Stanhope spoke in support of Council reconsidering the closure of the Willow Glen skate park.
2. Citizen – The citizen spoke in support of Council reconsidering the closure of the Willow Glen skate park. He would like to see a copy of the actuary report and the person who made the reports qualifications.
3. J.B. Davis – Mr. Davis spoke in support of Council reconsidering the closure of the Willow Glen skate park.
4. Paul Winder – Mr. Winder spoke in support of Council reconsidering the closure of the Willow Glen skate park. He questioned the protocol for the park’s closure. He would like the report from ABAG to be made public.

Ms. McLaughlin confirmed that ABAG’s report had not yet been finalized. When the report is finalized, it could be made public. Mr. Alvarez confirmed that Staff became aware of the uneven surfaces at the park and contacted the City Attorney’s office to request ABAG perform an inspection on the park.

5. Gene Unser – Mr. Unser spoke in opposition of Council reconsidering the closure of the Willow Glen skate park. He hoped Council would end this situation tonight.
6. Ann May – Ms. May spoke in support of Council reconsidering the closure of the Willow Glen skate park.
7. Bonnie Silveria – Ms. Silveria spoke in opposition of Council reconsidering the closure of the Willow Glen skate park.
8. Citizen – the citizen spoke in support of Council reconsidering the closure of the Willow Glen skate park. He suggested getting both sides together to have a mediated discussion.
9. Michael McClellan – Mr. McClellan spoke in support of Council reconsidering the closure of the Willow Glen skate park.

Vice Mayor Campbell asked for clarification on whether the issue was closing ‘a skate park’ or closing a historic skate park.

A citizen confirmed that the Willow Glen skate park was the first publicly funded skate park in California. It is an issue of it being a historic park and needing a skate park south of I-780.

10. Bob Mutch – Mr. Mutch discussed public democracy, the park’s history, and the need for more public discussion.
11. Citizen – The citizen spoke in support of Council reconsidering the closure of the Willow Glen skate park.
12. Norm Koerner – Mr. Koerner spoke in opposition of Council reconsidering the closure of the Willow Glen skate park. He requested Council make a final

- decision tonight. Council is opening the door to reconsider every decision that has been made by other councils.
13. Citizen – The citizen asked Council why it would want to close a perfectly good park.
 14. Citizen– The citizen spoke in opposition of Council reconsidering the closure of the Willow Glen skate park.
 15. Council Member Schwartzman clarified that he was not present at the Council meeting when it voted to close the Willow Glen skate park.
 16. Scott Dean – Mr. Dean spoke in opposition of Council reconsidering the closure of the Willow Glen skate park. He suggested fencing off part of the X-Park for the younger kids. He discussed the issues of underage smoking, littering, and enforcement.
 17. Joe Kearns – Mr. Kearns asked if there were any claims against the City with regards to the Willow Glen skate park. He spoke in support of Council reconsidering the closure of the Willow Glen skate park.
 18. Joseph Lee – Mr. Lee spoke in support of Council reconsidering the closure of the Willow Glen skate park.

Mayor Patterson reviewed the reasons for requesting this item be reconsidered for placement on a future agenda.

Council and Staff discussed the current location of the Willow Glen skate park, finding an alternate location for a smaller skate park South of I-780, forwarding the issue to the Parks, Recreation and Cemetery Commission for consideration, devoting the City's efforts to finding a new location for a smaller skate park, and the need for the citizens to be involved in the process of finding an alternate location for a skate park.

Due to lack of support for reconsidering this item, it will not be re-agendized.

Mayor Patterson called for a 5-minute break at 10:02 p.m.

The meeting resumed at 10:08 p.m.

ACTION ITEM:

Clarification of City Council direction regarding the commitment for a new skate park south of Highway 780:

Mike Alvarez, Parks and Community Services Director, reviewed the staff report. He stressed the importance of coming up with a master plan. He did not know how long it would take to build the park. Money will be an issue. Staff was prepared to discuss the issue with the Parks, Recreation, and Cemetery Commission in December 2007. Staff was looking into a permanent facility with portable units. Staff has not looked at possible locations. The Mills site was a possible location for a small skate park. There could be a sub-committee formed within the Parks, Recreation, and Cemetery Commission to look into the issues. At the City's mid-year review, Staff might be ready to start with the demolition of the Willow Glen skate park.

Council and Staff discussed having a stakeholders meeting to discuss a future park, funding issues, possibly having a 'skater's newsletter' to keep the skater community

involved in the process, having a committee that included representatives from the skater community, fast tracking the process, the need to identify a funding mechanism, having a park that had phases for the different age groups, and possibly installing fencing at the X-Park to separate an area for the younger kids.

Public Comment:

1. Bob Mutch – Mr. Mutch discussed the assessment process for the design of a new skate park. It is important to nail down the design, set a deadline, etc. so that the costs won't continue to rise, as they did with the X-Park. He volunteered his efforts towards the new skate park.
2. Citizen – The citizen stated that there would be problems with the Mills site because it too is surrounded by residential property. He discussed his frustration with the process and conversation.
3. Rick Ernst – Mr. Ernst suggested contacting Amports to discuss possible funding for the park.
4. Joseph Lee – Mr. Lee requested the City look into installing lights at the X-Park so people could skate longer. He stressed the importance of having the skater community involved in the design process.

Mr. Alvarez stated that Staff could gather the meetings in the next 30-45 days. As soon as it could get consensus from the stakeholders with regards to location, it could start working on the design. Staff would move this item along as soon as possible. He confirmed Staff could have the location and design within six months, if not sooner.

Mr. Erickson clarified that there are some other high priority projects that are coming up in the near future.

Mayor Patterson stated that the direction to staff was to fast track the new skate park, look at creative financing, have design ready for consideration in 6 months, and to make it a stakeholder process.

Vice Mayor Campbell discussed using the Mills site for the skate park.

INFORMATIONAL ITEMS:

Reports from City Manager:

None

Council Member Committee Reports:

1. Mayor's Committee Meeting (Mayor Patterson) - Next Meeting Date: January 16, 2008
2. Association of Bay Area Governments (ABAG). (Mayor Patterson & Vice Mayor Campbell) - Next Meeting Date: April 24, 2008 – Spring General Assembly
3. Audit & Finance Committee. (Vice Mayor Campbell & Council Member - Schwartzman) - Next Meeting Date: February 8, 2008

4. League of California Cities. (Mayor Patterson & Council Member Schwartzman) - Next Meeting Date: January 16-18, 2008 - New Mayors & Council Members Academy
5. School Liaison Committee (Council Members Ioakimedes & Hughes) - Next Meeting Date: March 13, 2008
6. Sky Valley Open Space Committee (Vice Mayor Campbell & Council Member Ioakimedes) - Next Meeting Date: February 6, 2008
7. Solano EDC Board of Directors (Mayor Patterson & Council Member Ioakimedes) - Next Meeting Date: January 17, 2008
8. Solano Transportation Authority (STA) (Mayor Patterson & Council Member - Schwartzman) - Next Meeting Date: February 13, 2008
9. Solano Water Authority/Solano County Water Agency (Mayor Patterson & Council Member Schwartzman) - Next Meeting Date: February 14, 2008
10. Traffic, Pedestrian and Bicycle Safety Committee (Vice Mayor Campbell & Council Member Hughes) - Next Meeting Date: January 17, 2008 – Vice Mayor Campbell requested that Council direct the committee to have an additional meeting in February 2008 to discuss the traffic signal at Benicia High School. Mr. Erickson stated that he would look into whether or not the meeting could be facilitated.
11. Tri-City and County Regional Parks and Open Space (Vice Mayor Campbell & Council Member Hughes) - Next Meeting Date: February 20, 2008 – Citizen’s Advisory Committee
12. Valero Community Advisory Panel (CAP) (Council Member Hughes) - Next Meeting Date: January 24, 2008
13. Youth Action Task Force (Council Members Ioakimedes & Schwartzman) - Next Meeting Date: January 23, 2008
14. ABAG/CAL FED Task Force/Bay Area Water Forum (Mayor Patterson) - Next Meeting Date: February 11, 2008

ADJOURNMENT:

Mayor Patterson adjourned the meeting at 10:47 p.m.

Lisa Wolfe, City Clerk