

MINUTES OF THE  
REGULAR MEETING – CITY COUNCIL  
January 18, 2011

City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

**I. CALL TO ORDER:**

Mayor Patterson called the meeting to order at 7:00 p.m.

**II. CLOSED SESSION:**

**III. CONVENE OPEN SESSION:**

**A. ROLL CALL**

All Council Members were present.

**B. PLEDGE OF ALLEGIANCE**

Vice Mayor Schwartzman led the Pledge of Allegiance.

**C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF PUBLIC**

**IV. ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:**

**A. ANNOUNCEMENTS**

**1. Announcement of action taken at Closed Session, if any.**

Ms. McLaughlin reported that Council received information from Staff, and then gave direction to Staff.

Council Members Hughes, Schwartzman, and loakimedes disclosed exparte communications regarding the closed session item.

**2. Openings on Boards and Commissions:**

Mayor Patterson clarified that the interview process was still open for the openings on the boards and commissions. Staff discussed setting deadlines for applications/interviews in the future.

Mayor Patterson expressed Council's support and sorrow for the victims of the shooting in Tucson, Arizona.

Mayor Patterson stated the meeting would be adjourned in memory of Howard and Beverly Sherman.

Sky Valley Open Space Committee:  
Two full terms to January 31, 2015

Civil Service Commission:  
One full term to January 31, 2015

Building Board of Appeals:  
Three full terms to January 31, 2015

Solano Transportation Authority Pedestrian Advisory Committee:  
One full term to January 31, 2014

Human Services Board:  
One unexpired term to July 31, 2014

Finance, Audit and Budget Committee:  
One full term to January 21, 2015

**3. Mayor's Office Hours:**

**4. Benicia Arsenal Update**

No update was necessary, as the Arsenal would be discussed under the Consent Calendar.

**B. APPOINTMENTS**

**1. Confirmation of the Mayor's appointment of Council Member Hughes as the alternate to the Soltrans Joint Powers Authority via an addition to the resolution of the Mayor's Appointments of Members to Standing, Ad Hoc and outside agency committees.**

On motion of Mayor Patterson Council adopted the Resolution, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

**RESOLUTION 11-1 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF MEMBERS OF THE CITY COUNCIL TO STANDING AD HOC AND OUTSIDE AGENCY COMMITTEES**

**C. PRESENTATIONS**

**D. PROCLAMATIONS**

**V. ADOPTION OF AGENDA:**

Mr. Kilger stated there were no changes. He noted minor amendments to items VII.B and VII.C. Mr. Knox clarified that pages VII.B.20 and VII.C.20, both staff reports incorrectly list references to the right-turn pocket, which should have

been precluded from the contract: paragraph 2, subsections b, c, and d, should be stricken.

Council Member loakimedes requested item VII.F be heard prior to items VII.B and VII.C (and any other items that might be pulled).

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

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

## **VI. OPPORTUNITY FOR PUBLIC COMMENT:**

### **A. WRITTEN COMMENT**

One item received from Karen Burns (copy on file).

### **B. PUBLIC COMMENT**

David Lockwood - Mr. Lockwood discussed concerns regarding City salaries. He discussed concern regarding maintenance in the Rose Drive/East Second Street assessment district, and volunteers being unhappy about the excess money being spent on City salaries.

Mr. Kilger discussed the issue of maintenance on Rose Drive, the City not being near bankruptcy, the upcoming Council meeting on 2-1-11 (where the City's finances and services would be discussed), and the issue of employee compensation/balancing the budget.

Council Member Campbell suggested resuming the past practice of having the last Tuesday of each month dedicated to a meeting to discuss the budget.

Vice Mayor Schwartzman announced BERT was having two upcoming classroom sessions. He encouraged the public to participate. He then announced an upcoming Families in Transition/Community Action Coalition fundraiser.

## **VII. CONSENT CALENDAR:**

Council pulled items VII.B, VII.C, VII.D, VII.E, VII.F, and VII.J for discussion.

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

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

### **A. Approval of Minutes of the Special and Regular meeting of January 4, 2011**

## **B. CONTRACT FOR DESIGN AND CONSTRUCTION ADMINISTRATION OF THE DOWNTOWN INTERMODAL PROJECT**

### **RESOLUTION 11-5 - A RESOLUTION APPROVING A CONTRACT WITH KIMLEY-HORN AND ASSOCIATES, INC. FOR A NOT-TO-EXCEED COST OF \$570,179 TO COMPLETE THE DESIGN AND CONSTRUCTION ADMINISTRATION FOR THE DOWNTOWN INTERMODAL PROJECT**

Mayor Patterson stated that if any specifics were going to be discussed, she would have to recuse herself, due to a conflict of interest.

Staff discussed justification for hiring a consultant for this project.

Council Member Ioakimedes and Staff discussed whether there should be language specifying the relationship between the first and second part of the contract.

Mayor Patterson recused herself.

Council Member Campbell and Staff discussed concern regarding the placement of the trees and bulbouts. Staff recommended waiting until the design changes are submitted - as Council and the public would have a chance to review.

Council Member Hughes clarified that the current plans were preliminary, and Council, Staff, and the public, would have a chance to review future changes.

Council Member Ioakimedes discussed the need to follow the process.

Vice Mayor Schwartzman and Staff discussed the issue of the maintenance of the trees being planted. He asked Staff to verify that the left turn lane turning into the Solano Square/Starbucks area would still be there (it would).

Council Member Ioakimedes clarified the need for the City/Council to be stewards of the funds for this project.

Council Member Campbell and Staff discussed the lack of bicycle lanes in the current design.

#### **Public Comment:**

Toni Haughey - Ms. Haughey discussed concern regarding HPRC/Planning Commission not being given the chance to provide input on this project from the very beginning. She discussed using some of the funds to replace some of the light fixtures on First Street.

Council Member Hughes discussed the need for better communication in the future, so there would not be as many surprises to Council or the public.

End of Public Comment

Council Member Hughes made a motion to adopt the resolution, with the suggested changes (to page VII.B.20).

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

Ayes: Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

**C. CONTRACT FOR DESIGN AND CONSTRUCTION ADMINISTRATION OF THE WESTERN GATEWAY INTERMODAL PROJECT**

**RESOLUTION 11-6 - A RESOLUTION APPROVING A CONTRACT WITH KIMLEY-HORN AND ASSOCIATES, INC. FOR A NOT-TO-EXCEED COST OF \$570,179 TO COMPLETE THE DESIGN AND CONSTRUCTION ADMINISTRATION FOR THE WESTERN GATEWAY INTERMODAL PROJECT**

Council Member loakimedes and Staff discussed page VII-C-20, and the issue of permanent impacts to the side streets in the area. Staff clarified that could be addressed in the scope of work, and it would be part of the design process.

Council Member Campbell and Staff discussed what could be done with the leftover funds (use it for traffic mitigation/calming on West K Street).

Public Comment:

None

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

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

**D. FORMATION OF AN AD-HOC TASK FORCE TO RECOMMEND BIKE RACKS AND LOCATIONS**

**RESOLUTION 11-7 - A RESOLUTION APPROVING THE FORMATION OF A BICYCLE RACK TASK FORCE**

Council Member Campbell inquired about what the committee would be doing. He discussed concern regarding returning the racks and losing out on the money used to purchase them. Staff discussed possible recommendations the committee could make, and placing the racks in better locations.

Council Member Campbell inquired whether Staff could install the racks in an attempt to save money. Staff indicated it would most likely cost more for Staff to install the racks, rather than the contractor.

Council Member Campbell clarified the funds for the bicycle racks came from the Good Neighbor Steering Committee, and was stipulated for bicycle racks.

Public Comment:

Larry Fullington - Mr. Fullington stated he was speaking on behalf of a neighbor. Perhaps the dulling the surface on the racks and making them look more like a wagon wheel would make them look more appropriate.

Marilyn Bardet - Ms. Bardet hoped the City would find an equitable way to move the racks without having to lose them and the funds already spent on them. She discussed concern regarding the need to follow a process.

Karen Burns - Ms. Burns read a letter she submitted stating her concerns regarding the bike racks (copy on file).

Toni Haughey- Ms. Haughey discussed the installation costs, an experience she had watching staff stand around and watch the bike rack installations, the need to follow the processes, and the disconnect between Staff and the commissions.

End of Public Comment

Mayor Patterson asked if there was a motion to approve the formation of the task force, with the addition that there be a report on the alternative staff installation option, and an accurate cost of all the bike rack installations.

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

Ayes: Patterson, Schwartzman, Campbell, Hughes, Ioakimedes

Noes: (None)

**E. APPROVAL OF A CONTRACT AMENDMENT FOR RENNE SLOAN HOLTZMAN SAKAI, LLP FOR HUMAN RESOURCES PROFESSIONAL SERVICES**

**RESOLUTION 11-8 - A RESOLUTION APPROVING THE CONTRACT AMENDMENT IN THE AMOUNT OF 87,500 WITH RENNE SLOAN HOLTZMAN SAKAI, LLP, MODIFYING THE SCOPE TO INCLUDE ADDITIONAL PERSONNEL SERVICES AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY**

Mayor Patterson asked Staff for justification for hiring the consultant. Staff confirmed the City did not have qualified staff available for this position. In part, the City would need to hire someone for this position, even if it had a human resources manager on staff, particularly for the task of labor negotiations.

Public Comment:

None

On motion of Vice Mayor Schwartzman, seconded by Council Member

loakimedes, Council adopted the Resolution, on roll call by the following vote:  
Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes  
Noes: (None)

**F. DENIAL OF THE CLAIM AGAINST THE CITY BY PRISM ENGINEERING, INC. AND REFERRAL TO INSURANCE CARRIER**

Council Member loakimedes discussed the issue of a possible conflict of interest regarding the services being bundled with the contractor.

Staff clarified there was no conflict of interest with the way the agreement was structured.

Council Member Campbell inquired if Staff knew of a history of a similar situation. Staff indicated there was no such history in the City. Council Member Campbell would like to know (for future items) when the contractor has a history regarding similar situations/scenarios.

Public Comment

None

On motion of Vice Mayor Schwartzman, seconded by Council Member Hughes, Council approved the denial of the claim against the City by Prism Engineering, Inc., and referral to insurance carrier, on roll call by the following vote:  
Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes  
Noes: (None)

**G. APPROVAL OF THE BENICIA HIGH SCHOOL TRAFFIC SIGNAL AND ENTRANCE CIRCULATION IMPROVEMENT PROJECT**

**RESOLUTION 11-2 - A RESOLUTION APPROVING CHANGE ORDER NO. 27 IN THE AMOUNT OF \$2,500, ACCEPTING THE BENICIA HIGH SCHOOL TRAFFIC SIGNAL AND ENTRANCE CIRCULATION IMPROVEMENT PROJECT AS COMPLETE INCLUDING CHANGE ORDER NOS. 1-27, AUTHORIZING THE CITY MANAGER TO SIGN THE NOTICE OF COMPLETION, AND AUTHORIZING THE CITY CLERK TO FILE SAME WITH THE SOLANO COUNTY RECORDER**

**H. REVIEW AND ACCEPTANCE OF THE INVESTMENT REPORT FOR THE QUARTER ENDED SEPTEMBER 2010**

**I. PURCHASE OF REPLACEMENT PUMPS AT THE LAKE HERMAN PUMP STATION**

**J. REPORT FROM THE ARSENAL SUBCOMMITTEE AND RECOMMENDATION FOR AWARD OF AN AGREEMENT FOR CONSULTING SERVICES FOR THE BENICIA ARSENAL PROJECT TO ENVIRONMENTAL RISK SERVICES ("ERS")**

**RESOLUTION 11-4 - A RESOLUTION AWARDDING THE CONSULTANT**

**AGREEMENT TO ERS CORPORATION FOR THE BENICIA ARSENAL CLEANUP PROJECT AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONTRACT ON BEHALF OF THE CITY**

Vice Mayor Schwartzman pulled this item so Council could provide the public with an update.

Mayor Patterson discussed the meeting that took place last week. The DOJ was doing a good job of slowing the process down, thus putting the current property owners at a higher risk of having to absorb the remediation costs that might be necessary. She was offended by the representative of the DOJ and his comments toward a private attorney that was at the meeting. She hoped they would be able to make progress at a future meeting. The next step would to begin the process of public outreach, start a notification process, and come up with a strategy.

Vice Mayor Schwartzman reiterated that it behooved the DOJ to drag this issue along. He was disappointed that the DOJ presented the way they did. The longer this is strung out, he fears the DTSC will issue an imminent endangerment order. He doesn't want that to happen.

Council Member Campbell disclosed exparte communications. He discussed the issue of limiting the geographical scope of the cleanup, and the need to better define what the mitigation is that the DTSC wants. Staff suggested including language regarding those issues in 'Develop Strategy #5.' Staff suggesting adding 'consideration would be given early on to limiting the scope of the Arsenal Project in terms of the property owners or operators in the geographical area.' Mayor Patterson would like to see a parenthetical inserted regarding cost, time, and efficient/effective manner.

Vice Mayor Schwartzman and Staff discussed the issue of the geographical scope of work, and the possibility of determining (up front) which properties don't need to be included.

Council Member Ioakimedes and Staff discussed the issue of developing a cleanup strategy and the City's core values. He did not think the current language went far enough.

Council Member Hughes disclosed exparte communications. He discussed concern regarding developing strategies at this time.

Council Member Ioakimedes disclosed exparte communications.

**Public Comment:**

Dana Dean - Ms. Dean discussed concern regarding the proposed agreement regarding excess funds, remediation funds, termination clause, and the issue of the City tendering insurance against property owners. She was concerned that

the document incentivizes making claims against the property owners.

Council and Staff discussed the concerns raised by Ms. Dean.

Council Member Hughes suggested adding language to paragraph 3a to prevent ambiguity regarding what the City would pay the consultant.

Ms. Dean inquired whether the property owners had been notified (as concerns had been raised about lack of notice in the past), and whether it was the Council's intention to have the City Attorney approve 'any other' remediation funds (paragraph 5).

Marilyn Bardet - Ms. Bardet discussed concern regarding the process for determining which properties are clean.

David Lockwood - Mr. Lockwood discussed the need to get the State of California involved in this issue. It could be risky and costly for the City to take this on alone.

End of Public Comment

Ms. McLaughlin listed the proposed changes to the agreement:

- Address the concern in paragraph 3(a) on page VII.J.7 regarding the City Attorney approval of 'any other remediation funds' a clause will be added that the city attorney will report any approval immediately to the Council
- Also in paragraph 3, insert language stating that the consultant would be paid for work actually performed
- On page VII.J.9 paragraph 6 (b), there was discussion about work actually performed, but that was actually included in paragraph 6 (b) and (c), so that didn't need to be amended
- The City Attorney explained the difference between 'any time' and 'at that time' so she did not think that needed to be amended
- On page VII.J.17 - she suggested in paragraph one, that early meetings with DTSC and other agencies, she put in there under 'purpose' - 'to consider strategy per paragraph 5 below, and public participation opportunities'
- On page VII.J.18, item 5, insert the sentence 'in determining the cost, time efficient and effective strategy, consideration would be given early on to limiting the scope of the Arsenal Project. In terms of an appropriate property owners or operators, and/or geographic area'. By including the reference in paragraph 1 to paragraph 5, that should make it easier.

Council Member Campbell made a motion to adopt the resolution as amended, incorporating the changes listed by Ms. McLaughlin.

Council discussed the need for language regarding the clean property owners being able to opt out.

Council Member loakimedes discussed concern regarding the need for a document that clearly states Council's intentions (so future council's know the current council's intentions).

Ms. McLaughlin read the additional changes to the language:

- In determining a cost, time efficient, and effective strategy, consideration will be given early on to limiting the scope of the Arsenal Project in terms of appropriate property owners, operators, and/or geographic area - add a parenthetical the definition of appropriate - if a property is determined to be free of contamination, property owners will have the option of participating in the City's global program for the Arsenal Project.

Council Member Campbell agreed to the amendment to his motion.

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

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

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

**VIII. PUBLIC HEARINGS:**

**IX. ACTION ITEMS:**

**X. INFORMATIONAL ITEMS:**

**A. City Manager Reports**

**1. OVERVIEW OF THE SUSTAINABLE COMMUNITIES STRATEGY, IMPLEMENTATION OF SENATE BILL 375 RELATIVE TO LAND USE, TRANSPORTATION, AND ENVIRONMENTAL PLANNING**

Charlie Knox, Public Works & Community Development Coordinator, reviewed the staff report.

Council Member loakimedes and Staff discussed the issue of housing to jobs instead of jobs to housing, and working that school of thought into the workings of a transit agency.

Council Member Hughes and Staff discussed the risks associated with entering into a partnership (SolTrans).

Mayor Patterson suggested having regular updates on this item.

**Public Comment:**

None

## **2. STATUS REPORT ON THE AGREEMENT WITH ALLIED WASTE FOR THE SOLID WASTE, RECYCLING AND GREEN WASTE FRANCHISE AGREEMENT**

Heather McLaughlin, City Attorney, reviewed the staff report.

Vice Mayor Schwartzman discussed the improvements made to the proposed agreement, and the state mandated recycling program.

Council Member Ioakimedes clarified that a lot of the changes that were made to the contract are things that the City is already doing. He felt the agreement would be a good thing for the City.

Council Member Campbell discussed the waste management contract the City of San Carlos signed. He discussed the public participation aspect that San Carlos did, but seemed to be missing in Benicia. He inquired how much the City was saving the Benicia Unified School District by not charging them for the waste pickup. He discussed the issue of customer complaints, and how that should be handled. He would like to have some kind of public committee or input on how much Allied could increase the fees, and have it tied to the CPI. He would like to look at the rate the City is getting for the franchise fee (it seemed to be lower than other comparable cities).

Mayor Patterson asked Council to put the remainder of their comments into an email to the City Manager that could then be distributed to all council members.

Mayor Patterson gave direction to Staff to look at opportunities to schedule a workshop or study session to discuss the concerns submitted by Council, and get back to Council to let them know when that would be. Staff should find other ways to solicit feedback from the commercial community.

Council Member Hughes discussed the good service and relationship the City has had with Allied Waste. They have been a good community partner. He would like the issues of the rate increase, and the franchise extension fee addressed in a workshop.

Council Member Ioakimedes clarified there was a meeting on 1/25/11 at the Chamber of Commerce for the commercial community, to get feedback on the agreement.

Mayor Patterson would like an answer about the relationship with the transfer stations and the landfills.

Vice Mayor Schwartzman and Staff cautioned Council on the time constraints with either moving forward or proceeding with seeking RFP's.

Council Member Hughes did not feel another workshop was necessary. He felt

Council had the information it needed to make an informed decision.

Council Member Campbell discussed the need to get the message out to the public that there would be a fee increase, but the services they would be receiving would be positive.

Public Comment:

Dana Dean - Ms. Dean spoke in support of having a workshop to discuss the contract.

Tim Argente - Mr. Argente stated that Allied Waste looked forward to working with the City.

End of Public Comment

Council Member Ioakimedes cautioned people about assuming there would be fee increases.

### **3. FOREIGN TRADE ZONES**

Mario Giuliani, Management Analyst, reviewed the staff report.

Public Comment:

None

#### **B. Council Member Committee Reports**

- 1. Mayor's Committee Meeting. (Mayor Patterson)  
Next Meeting Date: January 19, 2011**
- 2. Association of Bay Area Governments (ABAG). (Mayor Patterson and Council Member Ioakimedes)  
Next Meeting Date: 2011 Spring General Assembly will be held on Thursday, April 14, 2011**
- 3. Finance, Audit and Budget Committee. (Vice Mayor Schwartzman and Council Member Campbell)  
Next Meeting Date: February 3, 2011**

Council Member Campbell discussed the City's recent successful audit, and concerns regarding the audit firm. The committee might recommend changing audit firms.

- 4. League of California Cities. (Mayor Patterson and Vice Mayor Schwartzman)  
Next Meeting Date: City Manager's Department Meeting, February 2-4, 2011**

5. **School Liaison Committee. (Council Members Ioakimedes and Hughes)**  
**Next Meeting Date: March 10, 2011**
6. **Sky Valley Open Space Committee. (Council Members Campbell and Hughes)**  
**Next Meeting Date: February 2, 2011**
7. **Solano EDC Board of Directors. (Mayor Patterson and Council Member Campbell)**  
**Next Meeting Date: January 20, 2011**
8. **Solano Transportation Authority (STA). (Mayor Patterson and Council Member Ioakimedes)**  
**Next Meeting Date: January 19, 2011**
9. **Solano Water Authority-Solano County Water Agency and Delta Committee. (Mayor Patterson and Vice Mayor Schwartzman)**  
**Next Meeting Date: January 13, 2011**
10. **Traffic, Pedestrian and Bicycle Safety Committee. (Council Members Hughes and Ioakimedes)**  
**Next Meeting Date: January 20, 2011**
11. **Tri-City and County Regional Parks and Open Space. (Council Members Campbell and Hughes)**  
**Next Meeting Date: TBD**
12. **Valero Community Advisory Panel (CAP). (Council Member Hughes)**  
**Next Meeting Date: TBD**
13. **Youth Action Coalition. (Vice Mayor Schwartzman and Council Member Campbell)**  
**Next Meeting Date: January 26, 2011**
14. **ABAG-CAL FED Task Force-Bay Area Water Forum. (Mayor Patterson)**  
**Next Meeting Date: TBD**

**XI. ADJOURNMENT:**

Mayor Patterson adjourned the meeting at 10:32 p.m. in memory of Howard and Beverly Sherman.

Lisa Wolfe, City Clerk