

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
JANUARY 20, 2009

The regular meeting of the City Council of the City of Benicia was called to order by Vice Mayor Campbell at 7:00 p.m. on Tuesday, January 20, 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, and Schwartzman

Absent: Mayor Patterson

PLEDGE OF ALLEGIANCE:

Vice Mayor Campbell 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:

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
- Parks, Recreation and Cemetery Commission:
One unexpired term to March 31, 2010

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 746-4200.

APPOINTMENTS:

None

PRESENTATIONS:

Presentation by Jen McGraw of the Center for Neighborhood Technology:

Ms. McGraw reviewed a PowerPoint Presentation on the Center for Neighborhood Technology (hard copy on file).

Presentation of \$62,510 rebate check from Pacific Gas & Electric Company to the City for the recent installation of energy efficient replacement blowers at the Wastewater Treatment Plant:

Mr. Allan Lacson, Pacific Gas & Electric Company, Ms. Patti Boyd, Ecos, and Mr. Rupert Dallas, Ecos, presented the City with a rebate check of \$62,510.

PROCLAMATIONS:

None

Jim Erickson, City Manager, introduced Fire Chief Steve Vucurevich.

ADOPTION OF AGENDA: moved action items to front of agenda

Mr. Erickson discussed moving item VII-C to Action Items and continuing item IX-A to a future meeting. Vice Mayor Campbell suggested moving IX-A to the front of the agenda to take public comment prior to continuing it.

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, and Schwartzman

Noes: None

Absent: Mayor Patterson

OPPORTUNITY FOR PUBLIC COMMENT:

WRITTEN:

Various items submitted (copies on file).

PUBLIC COMMENT:

None

CONSENT CALENDAR:

Item VII-C was moved to Action Items per the adoption of the Agenda.

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, and Schwartzman

Noes: None

Absent: Mayor Patterson

Council approved the Minutes of January 6, 2009.

ORDINANCE 09- - AN ORDINANCE AMENDING SECTION 5.52.050 (PERMIT NOT REQUIRED) OF CHAPTER 5.52 (MASSAGE) OF TITLE 5 (BUSINESS TAXES, LICENSES AND REGULATIONS) OF THE BENICIA MUNICIPAL CODE BY ADDING A NEW SUBSECTION F TO EXEMPT STATE CERTIFIED PRACTITIONERS OR THERAPISTS

RESOLUTION 09-02 - A RESOLUTION APPROVING A CONTRACT FOR REPLACEMENT OF WATER FILTER MEDIA AT THE WATER TREATMENT PLANT WITH CARBON ACTIVATED CORPORATION IN THE INITIAL AMOUNT OF \$146,086, WITH SUBSEQUENT COSTS BEING NEGOTIATED IN 2010 AND 2012, AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONTRACT ON BEHALF OF THE CITY

ORDINANCE 09-04 - AN ORDINANCE 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 09-05 - AN ORDINANCE 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

Council approved the amendment to the agreement between the City of Benicia and Benicia Main Street.

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

(END OF CONSENT CALENDAR)

PUBLIC HEARINGS:

Adoption of annual increases for the capital improvement license tax, the parkland dedication fee, and the library book fee:

Rob Sousa, Finance Director, reviewed the staff report.

Council Member Ioakimedes and Staff discussed what communities do when they reach build out and you have to stop issuing building permits.

Council Member Hughes and Staff discussed how the proposed fees compared to other fees in neighboring communities (In the past it has been roughly $\frac{3}{4}$ of what Vallejo, Fairfield, and Vacaville have been.)

Public Comment:

1. Rick Ernst – Mr. Ernst discussed whether the fees were related to remodels and other types of permits. Staff confirmed the fees were related to new dwelling units. For commercial and industrial, if they were going to add on to their facility, the commercial and industrial portion of the capital improvement tax would be applied to the commercial industrial. This should apply to the Benicia Business Park as it gets developed. However, depending on the outcome, the Benicia Business Park would be linked to the development impact rates that were in existence when they applied. So, these rates would not apply.

RESOLUTION 09-03 - A RESOLUTION ADOPTING INCREASES FOR THE CAPITAL IMPROVEMENT LICENSE TAX FOR CONSTRUCTION OR ALTERATION OF SINGLE-FAMILY RESIDENCES, MULTIPLE-DWELLING STRUCTURES, AND COMMERCIAL OR INDUSTRIAL FACILITIES

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

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

Noes: None

Absent: Mayor Patterson

RESOLUTION 09-04 - A RESOLUTION ADOPTING AN INCREASE IN THE PARK LAND DEDICATION FEE

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

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

Noes: None

Absent: Mayor Patterson

RESOLUTION 09-05 - A RESOLUTION ADOPTING AN EXTENSION AND INCREASE IN THE LIBRARY BOOK FEE

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

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

Noes: None

Absent: Mayor Patterson

ACTION ITEMS:

First reading and introduction of an ordinance amending Chapter 8.38 (Graffiti Control) of Title 8 (Health and Safety) of the Municipal Code:

Jim Erickson, City Manager, introduced the item.

Chief Sandra Spagnoli reviewed the staff report.

Council Member Hughes and Staff discussed taking aggressive steps to fight graffiti, concerns about the message this might send to the citizens regarding penalties for property owners, softening the language and maintaining the same results, current noticing requirements, and Staff's attempts at strengthening the existing ordinance.

Council Member Schwartzman and Staff discussed past instances with graffiti and what percentage has been on public property vs. private property. Most of the calls the Police Department receives are regarding private property. The graffiti abatement that is done at City parks or on City property is generally handled immediately. They discussed the current notification process, the proposed graffiti removal time limit, how the issue of multiple property owners would be addressed, the nexus of the foreclosure action against an offender if they don't own property, language regarding property liens, and the responsibility of businesses regarding the handling of graffiti implements.

Council Member Ioakimedes and Staff discussed the differences between vandalism, graffiti, and mischievous acts.

Council Member Hughes and Staff discussed how the reward expenses/funds would be handled.

Vice Mayor Campbell and Staff discussed the issue of criminalizing the victim, addressing the issue of property liens, and softening the language regarding the City working with the property owner to remove graffiti.

Public Comment:

1. Rick Ernst – Mr. Ernst discussed concerns he had stated in writing (copies on file). He spoke in favor of the enforcement issues. He discussed concerns regards the lien provisions on property owners who are tagged.
2. Jerry Hayes – Mr. Hayes discussed his experiences with graffiti problems. He spoke in opposition to Council taking action on this item tonight, as it needs more work. There is overkill and it is going too far. The issue has not been publicized enough.
3. Judith Judson-Baker – Ms. Judson-Baker discussed the trouble she has had with graffiti on her property. It is a very expensive undertaking. She urged Council to rewrite the ordinance so it works better for the property owners. She discussed concerns regarding curfew enforcement. She discussed the connection between graffiti and the inundation of public housing.

Council Member Hughes and Staff discussed what the City knows about those who are committing the crimes, kids doing the graffiti when they are going to and from a location, tracking graffiti, graffiti being a recreational activity that is not just done by kids, the fact that there is a low apprehension rate, and Staff going back to look at some of the language that appears to be heavy handed and bring it back to Council.

Council Member Ioakimedes and Staff discussed the issue of Staff's increased attention on the East Third Street Tunnel, the reduction in graffiti incidents, and concerns regarding some of the provisions in the language that could be interpreted.

Council Member Schwartzman and Staff discussed the issue of softening the 72-hour removal requirement, publicizing the reward program, installing cameras in the East Third Street Tunnel, looking into how to best deal with uncooperative property owners, and concerns regarding the lien provision.

Council Member Hughes clarified that he did not want to go overboard in softening the ordinance. He would like to see the language reflect a partnership between the City and the property owners.

Council Member Ioakimedes discussed the 72-hour removal requirement and having it be discretionary.

Mr. Erickson stated that Staff could work with the business community and the community on this issue. However, some of the concerns stated tonight are things that are already in place in the current ordinance. Also, they are things that are in place and working in other communities.

Council Member Schwartzman requested a redlined version or something similar to track changes in the new and old version of the ordinance.

Vice Mayor Campbell discussed putting a safety belt in the ordinance regarding 'administrative hearings' pertaining to appeals to the City Council. He inquired what the penalties were for graffiti. He stated that the ordinance needed fine-tuning.

INFORMATIONAL ITEMS:

Reports from City Manager:

None

Council Member Committee Reports:

1. Mayor's Committee Meeting - (Mayor Patterson) - Next Meeting Date: January 21, 2009
2. Association of Bay Area Governments (ABAG) - (Mayor Patterson & Vice Mayor Campbell) - Next Meeting Date: April 23, 2009 – Spring General Assembly
3. Audit & Finance Committee - (Vice Mayor Campbell & Council Member Schwartzman) - Next Meeting Date: February 6, 2009
4. League of California Cities - (Mayor Patterson & Council Member Schwartzman) - Next Meeting Date: February 19, 2009
5. School Liaison Committee - (Council Members Ioakimedes & Hughes) - Next Meeting Date: March 12, 2009
6. Sky Valley Open Space Committee - (Vice Mayor Campbell & Council Member Ioakimedes) - Next Meeting Date: February 4, 2009
7. Solano EDC Board of Directors - (Mayor Patterson & Council Member Ioakimedes) - Next Meeting Date: January 22, 2009
8. Solano Transportation Authority (STA) - (Mayor Patterson & Council Member Schwartzman) - Next Meeting Date: February 11, 2009
9. Solano Water Authority/Solano County Water Agency and Delta Committee - (Mayor Patterson & Vice Mayor Campbell) - Next Meeting Date: February 12, 2009

10. Traffic, Pedestrian and Bicycle Safety Committee - (Vice Mayor Campbell & Council Member Hughes) - Next Meeting Date: April 16, 2009
11. Tri-City and County Regional Parks and Open Space - (Vice Mayor Campbell & Council Member Hughes) - Next Meeting Dates: Citizen's Advisory Committee - February 18, 2009 and Governing Board – March 9, 2009. Vice Mayor Campbell discussed current issues going on with Lynch Canyon.
12. Valero Community Advisory Panel (CAP) – (Council Member Hughes) - Next Meeting Date: January 29, 2009
13. Youth Action Task Force - (Council Members Ioakimedes & Schwartzman) - Next Meeting Date: January 28, 2009
14. ABAG/CAL FED Task Force/Bay Area Water Forum - (Mayor Patterson) - Next Meeting Date: February 23, 2009

COUNCIL MEMBER REPORTS:

None

ADJOURNMENT:

Vice Mayor Campbell adjourned the meeting at 8:36 p.m.

Lisa Wolfe, City Clerk