

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
February 05, 2013

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

I. CALL TO ORDER:

The Closed Session was cancelled.

II. CLOSED SESSION:

**A. CONFERENCE WITH LABOR NEGOTIATOR
(Government Code Section 54957.6 (a))**

Agency negotiators: City Manager, Administrative Services Director

Employee organizations: City Manager, City Attorney, Senior Managers, Benicia Middle Management Group, Local 1, Benicia Public Service Employees' Association (BPSEA), Benicia Police Officers Association (BPOA), Benicia Firefighters Association (BFA), Benicia Dispatchers Association (BDA), Police Management, Unrepresented.

III. CONVENE OPEN SESSION:

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

A. ROLL CALL

All Council Members were present.

B. PLEDGE OF ALLEGIANCE

Sue Wilson led the Pledge of Allegiance.

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC.

IV. ANNOUNCEMENTS/PROCLAMATIONS/APPOINTMENTS/PRESENTATIONS:

A. ANNOUNCEMENTS

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

The Closed Session was cancelled.

2. Openings on Boards and Commissions:

Art and Culture Commission
1 unexpired term
2 full terms
Open Until Filled

3. Mayor's Office Hours:

4. Benicia Arsenal Update:

Mayor Patterson reviewed the written report.

B. PROCLAMATIONS

C. APPOINTMENTS

- 1. Reappointment of Constance Beutel to the Community Sustainability Commission for a four year term ending January 31, 2017.**

RESOLUTION 13-5 - A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENT OF CONSTANCE BEUTEL TO THE SUSTAINABILITY COMMISSION FOR A FOUR YEAR TERM ENDING JANUARY 31, 2017

On motion of Mayor Patterson Council adopted Resolution 13-5, on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes
Noes: (None)

- 2. Reappointment of Michael T. Clarke to the Finance Committee for a four year term ending January 31, 2017.**

RESOLUTION 13-6 - A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENT OF MICHAEL T. CLARKE TO THE FINANCE COMMITTEE FOR A FOUR YEAR TERM ENDING JANUARY 31, 2017

On motion of Mayor Patterson Council adopted Resolution 13-6, on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes
Noes: (None)

3. **Reappointment of Fred Deltorchio to the Civil Service Commission for a four year term ending January 31, 2017.**

RESOLUTION 13-7 - A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENT OF FRED DELTORCHIO TO THE CIVIL SERVICE COMMISSION FOR A FOUR YEAR TERM ENDING JANUARY 31, 2017

On motion of Mayor Patterson Council adopted Resolution 13-7, on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes
Noes: (None)

4. **Reappointment of Carol Langford to the Open Government Commission for a four year term ending January 31, 2017.**

RESOLUTION 13-8 - A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENT OF CAROL LANGFORD TO THE OPEN GOVERNMENT COMMISSION FOR A FOUR YEAR TERM ENDING JANUARY 31, 2017

On motion of Mayor Patterson Council adopted Resolution 13-8, on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes
Noes: (None)

5. **Appointment of David Lindsay to the Planning Commission for a four year term ending January 31, 2017.**

Council Member Hughes asked the subcommittee members why they did not support the appointment.

Council Members Schwartzman and Strawbridge noted that there were other applicants they felt were more qualified for the commission.

Mayor Patterson discussed her support for the appointment.

On motion of Mayor Patterson Council did not approve the Mayor's appointment of David Lindsay to the Planning Commission, on roll call by the following vote:

Ayes: Patterson, Campbell
Noes: Strawbridge, Schwartzman, Hughes

6. **Appointment of Kathy Griffin to the Finance Committee for a four year term ending January 31, 2017.**

RESOLUTION 13-9 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF KATHY GRIFFIN TO THE FINANCE COMMITTEE FOR A FOUR YEAR TERM ENDING JANUARY 31, 2017

On motion of Mayor Patterson Council adopted Resolution 13-9, on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes
Noes: (None)

7. **Appointment of Gethsemane Patton to the Arts and Culture Commission for a four year term ending January 31, 2017.**

RESOLUTION 13-10 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF GETHSEMANE PATTON TO THE ARTS AND CULTURE COMMISSION FOR A FOUR YEAR TERM ENDING JANUARY 31, 2017

On motion of Mayor Patterson Council adopted Resolution 13-10, on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes
Noes: (None)

8. **Appointment of Michael Pretzer to the Uniform Code of Appeals for a four year term ending January 31, 2017.**

RESOLUTION 13-11 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF MICHAEL PRETZER TO THE UNIFORM CODE BOARD OF APPEALS FOR A FOUR YEAR TERM ENDING JANUARY 31, 2017

On motion of Mayor Patterson Council adopted Resolution 13-10, on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes
Noes: (None)

9. **Reappointment of Donna Worthington to the Human Services Board for a four year term ending January 31, 2017.**

RESOLUTION 13-12 - A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENT OF DONNA WORTHINGTON TO THE HUMAN SERVICES BOARD FOR A FOUR YEAR TERM ENDING JANUARY 31, 2017

On motion of Mayor Patterson Council adopted Resolution 13-12, on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes
Noes: (None)

10. Appointment of Stephen Young to the Planning Commission for a four year term ending January 31, 2017.

RESOLUTION 13-13 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF STEPHEN YOUNG TO THE PLANNING COMMISSION FOR A FOUR YEAR TERM ENDING JANUARY 31, 2017

On motion of Mayor Patterson Council adopted Resolution 13-13, on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Hughes
Noes: Campbell

D. PRESENTATIONS

1. Solano County Regional Traffic Impact Fee Program and Benicia's Priority Projects.

Daryl Halls, Janet Adams, and Janet Adams, STA, reviewed a PowerPoint presentation titled 'Regional Transportation Impact Fee Update' (copy on file).

Council Member Hughes and Mr. Halls discussed STA's definition of 'developers' (with regards to who pays the fees).

Vice Mayor Campbell, Mayor Patterson, and Mr. Halls discussed the issue of a ferry terminal/intermodal facility.

Public Comment:

None

V. ADOPTION OF AGENDA:

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

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes
Noes: (None)

VI. OPPORTUNITY FOR PUBLIC COMMENT:

A. WRITTEN COMMENT

Various items received (copies on file).

B. PUBLIC COMMENT

1. Elliott Rapp - Mr. Rapp discussed support for the cleanup and removal of the rusty boat, crane, and other debris from the boatyard and waterfront. He submitted photos of the debris for the record. He requested the issue be placed on a future Council agenda.
2. Jane Malone - Ms. Malone discussed support for the cleanup of the boat yard and waterfront. She discussed concern regarding the BCDC's classification of the area as one of its most egregious violations.
3. Bob Nelson – Mr. Nelson discussed the artistic and historic value of the boatyard.
4. Nikki Davis - Ms. Davis discussed the boatyard. Beauty is in the eye of the beholder.
5. Citizen - The citizen commended the City on the new transit center on Military West. She expressed concern regarding the rusting junk on the waterfront. The junk does not enhance the town.
6. Susan Street - Ms. Street thanked the Council Members who attended the 'Meet Your Elected Officials' event sponsored by the League of Women Voters of Benicia.
7. Sue Wilson - Ms. Wilson thanked Council for the way they have handled the Garske boatyard issue.
8. Elliott Rapp - Mr. Rapp asked for a point of information. He clarified that the original boatyard was not on First Street. It was on 9th Street.
9. Bonnie Silveria - Ms. Silveria clarified that the boatyard on First Street was not originally a boatyard; it was a lumber yard. The original boatyard was on 12th Street.

VII. CONSENT CALENDAR:

Council pulled item VII.D for discussion.

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

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes
Noes: (None)

A. APPROVAL OF THE MINUTES OF JANUARY 15, 2013.

B. SECOND READING AND ADOPTION OF AN ORDINANCE AMENDING THE BENICIA MUNICIPAL CODE REGARDING THE PURCHASING SYSTEM IN CHAPTER 3.08 OF TITLE 3

ORDINANCE 13-2 - AN ORDINANCE AMENDING CHAPTER 3.08 (PURCHASING REGULATION) IN ITS ENTIRETY OF TITLE 3 (REVENUE AND FINANCE) OF THE BENICIA MUNICIPAL CODE

C. SECOND READING AND ADOPTION OF AN ORDINANCE MAKING COMMERCIAL USE OF PARK FACILITIES WITHOUT PERMIT UNLAWFUL

ORDINANCE 13-3 - AN ORDINANCE AMENDING CHAPTER 12.28 (USE OF CITY PARKS) OF TITLE 12 (STREETS, SIDEWALKS AND PUBLIC PLACES) OF THE BENICIA MUNICIPAL CODE BY ADDING A NEW SECTION 12.28.040 (COMMERCIAL USE OF PARK FACILITIES WITHOUT PERMIT UNLAWFUL)

D. DENIAL OF THE CLAIM AGAINST THE CITY BY CLAYTON RUSHING AND REFERRAL TO INSURANCE CARRIER

Vice Mayor Campbell discussed concern regarding denying the claim, as it looked valid. He asked Staff for clarification on who is responsible for maintaining Lake Herman Road. The City is responsible for a portion of the road, and the County is responsible for the remainder. Vice Mayor Campbell noted that the portion of the road relevant to the claim appeared to be the responsibility of the County.

Public Comment:

None

On motion of Council Member Schwartzman, seconded by Council Member Strawbridge, Council approved the denial of the claim against the City by Clayton Rushing and referred it to the insurance carrier, on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes

Noes: (None)

E. DENIAL OF THE CLAIM AGAINST THE CITY BY THERESA FITCH AND REFERRAL TO INSURANCE CARRIER

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

VIII. BUSINESS ITEMS:

A. UTILITY AGREEMENT AND EASEMENTS FOR THE RELOCATION OF THE CITY'S WATERLINE NECESSITATED BY THE I-80/I-680/SR12 INTERCHANGE IMPROVEMENT PROJECT NEAR FAIRFIELD

RESOLUTION 13-14 - A RESOLUTION APPROVING A UTILITY AGREEMENT WITH THE SOLANO TRANSPORTATION AUTHORITY DISPUTING THE LIABILITY FOR THE RELOCATION OF BENICIA'S WATERLINE NECESSITATED BY THE I-80-680/SR12 INTERCHANGE IMPROVEMENT PROJECT NEAR FAIRFIELD, AUTHORIZING THE CITY MANAGER TO SIGN SAID AGREEMENT, AND AUTHORIZING THE CITY CLERK TO FILE THE SAME WITH THE SOLANO COUNTY RECORDER

RESOLUTION 13-15 - A RESOLUTION ACCEPTING EASEMENTS ALONG THE NEW ALIGNMENT OF THE CITY'S 30-INCH WATERLINE THAT IS BEING RELOCATED FOR THE I-80/I-680/SR12 INTERCHANGE IMPROVEMENT PROJECT NEAR FAIRFIELD, AUTHORIZING THE CITY MANAGER TO EXECUTE SAID EASEMENTS, AND AUTHORIZING THE CITY CLERK TO FILE THE SAME WITH THE SOLANO COUNTY RECORDER

Melissa Morton, Interim Public Works Director, reviewed the staff report.

Vice Mayor Campbell and Staff discussed the issue of eminent domain, and who should be responsible for moving the waterline. Staff suggested the City could do further research to find out if there is a way to make Caltrans pay for it. Vice Mayor Campbell discussed concern regarding the City losing leverage by approving this. The City could say no and settle this in court.

Council Member Hughes discussed concern regarding losing leverage with Caltrans/STA.

Mayor Patterson asked Staff to clarify 'gift of public funds' as referenced in the staff report.

Council Member Schwartzman discussed which was installed first, the waterline or the road.

Council Member Strawbridge discussed concern regarding the grant funding and use of public funds, as referenced on VIII.A.3.

Daryl Halls, STA, discussed that STA needed to follow State policies. Caltrans' view is that the City has to move the pipeline, as it is in their way. STA was under a tight timeline on the project, so to keep its rights in place; Benicia should go through the dispute/resolution process. Based on the meeting, Caltrans was pretty definitive on the issue. Initially, STA did look into including the cost of

moving the pipeline in the project; however they were notified that was against policy.

Mayor Patterson discussed the importance of the intersection to the City of Benicia. It is a huge safety issue. However, to stick the bill to the City of Benicia (with such a long reach), and because of the City's economic situation, is a very hard pill to swallow.

Council Member Schwartzman asked Mr. Halls if there was anything STA could do to help Benicia get funds to cover the \$400,000. He agreed the project would be an improvement, but was concerned about the City being required to pay \$400,000.

Vice Mayor Campbell expressed concern regarding Benicia being required to pay \$400,000 for this.

Public Comment:

None

Mayor Patterson indicated that she had confidence that STA would find a solution, and not stick the City with a \$417,000 bill.

Council Member Strawbridge suggested the City continue to work with the City of Vallejo on this, as there is strength in numbers.

On motion of Council Member Hughes, seconded by Council Member Schwartzman, Council adopted Resolution 13-14, on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Hughes
Noes: Campbell

On motion of Council Member Schwartzman, seconded by Council Member Hughes, Council adopted Resolution 13-15, on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Hughes
Noes: Campbell

B. RESOLUTION SUPPORTING REDUCING GUN VIOLENCE

RESOLUTION 13-16 - A RESOLUTION SUPPORTING THE REDUCTION AND PREVENTION OF GUN VIOLENCE

Mayor Patterson reviewed the staff report.

Council Member Hughes expressed concern regarding inserting opinions into the resolutions. He would like the 5th and 6th 'whereas' removed from the proposed resolution. He would rather state that the task force should look into the issue and report back to Council.

Public Comment:

1. Brian Bottari, Representative, Congressman Mike Thompson - Mr. Bottari thanked Council for their work and support on this issue.
2. Dennis Lowry - Mr. Lowry spoke in opposition to the proposed resolution.
3. William Emes - Mr. Emes spoke in support of the proposed resolution.

Mayor Patterson clarified this was a time sensitive item. The Congressman's task force hearing in Vallejo was well-attended, and people got their points across. She wanted to be careful about not trespassing on the issues of the Second Amendment. She did not consider gun ownership a God-given right. She did not think we should have assault weapons without controls in the country. She joined in with the Mayors Against Violence.

Mayor Patterson clarified that the word 'in' should (in compatible) should be stricken from the last paragraph. Ms. McLaughlin clarified that there was language missing that needed to be inserted into the fourth 'whereas' (practical common sense measures consistent with the Second Amendment that provide...).

Council Member Schwartzman discussed support for the issue. He suggested changing the fifth 'whereas', 'whereas there is meaningful discussion of.' He was okay with the last 'whereas', as we need to find a way to prevent people with mental health issues from getting guns.

Vice Mayor Campbell discussed concern regarding assault weapons. He is okay with regular guns, just not assault weapons.

Council Member Strawbridge discussed concern regarding the mental health component of this. It is a very important part of this and needs to be included.

Council Member Hughes clarified that support for this could be done with one 'whereas', as opposed to six. For the City to go further and add all of the extra 'whereas' in is too far. He is passionate about keeping people safe, however this was putting the cart before the horse.

Public Comment Reopened:

1. William Emes - Mr. Emes clarified that the generally accepted fact is that 4% of gun violence is perpetrated by someone who is mentally incapacitated. Someone who is mentally incapacitated is more likely to be

the victim of gun violence than the perpetrator.

2. Dana Dean spoke in support of the proposed resolution.

Council Member Schwartzman made a motion to approve the resolution with the amendment removing 'in' from the last whereas. The motion was seconded by Council Member Hughes. .

Vice Mayor Campbell asked for clarification that the motion was to remove the part about assault weapons and mental health issues altogether.

Council Member Schwartzman clarified that he was looking for unanimity; however, he wanted to be on record that those issues still needed to be discussed in the future.

Council Member Hughes stated he was okay if the above changes were not made. He supports the Council exploring the issue. He just doesn't support the two areas. He urged Council Member Schwartzman not to change the motion to support a 5-0 vote.

The motion passed with a 3-2 vote.

Mayor Patterson clarified that Council could ask for reconsideration on the item, or they could move on to the next item.

Vice Mayor Campbell made a motion to reconsider the resolution, which was seconded by Council Member Strawbridge. The motion passed with a 4-1 vote.

Vice Mayor Campbell made a motion to adopt the Resolution as presented, with the corrections: 1) typos (including removing 'in' from last whereas, and 2) replacing the word 'regulation' with the word 'discussion'. The motion passed with a 4-1 vote.

On motion of Council Member Schwartzman, seconded by Council Member Hughes, Council adopted Resolution 13-16, as amended, on roll call by the following vote:

Ayes: Hughes, Schwartzman, Campbell

Noes: Strawbridge and Patterson

On motion of Council Member Campbell, seconded by Council Member Strawbridge, Council approved reconsideration of Resolution 13-16, on roll call by the following vote:

Ayes: Hughes, Campbell, Strawbridge and Patterson

Noes: Schwartzman

On motion of Vice Mayor Campbell, seconded by Council Member Schwartzman, Council adopted Resolution 13-16, as amended, on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Campbell

Noes: Hughes

C. CHANGING THE DATE OF MUNICIPAL ELECTIONS FROM ODD NUMBERED YEARS TO EVEN NUMBERED YEARS AND EXTENDING THE TERM OF THE COUNCIL MEMBERS

Heather McLaughlin, City Attorney, reviewed the staff report.

Council Member Strawbridge inquired about the BUSD elections. They are on the same schedule (odd year).

Mayor Patterson clarified that BUSD was supportive and open to the idea of changing cycles as well.

Council Member Strawbridge asked if Solano County was trying to gain support for the cities to move to even year elections. Staff confirmed that was correct.

Council Member Hughes stated he was amazed Council had the ability to make the election cycle change. He was concerned it could appear to be self-serving. He asked citizens to weigh in on the issue. If this item is brought back for further discussion, he would like to have better information on possible cost-savings. He asked for clarification on notifying residents about the change. Ms. McLaughlin clarified that notification would go out to voters before and after the change was made.

Council Member Schwartzman clarified that past history showed that Solano Community College has consistently had items on the ballot every two years (therefore the worst case scenario was not very likely). He liked the idea of saving money and giving everyone a full year off in between election cycles.

Vice Mayor Campbell asked for clarification on the postcard notification process and cost. He asked if it cost the City less if the County had more than one proposition on a given ballot. He was uncomfortable with elected officials unilaterally extending their terms.

Mayor Patterson discussed a poll that Santa Clara County did regarding voter turnout. It seems that this would be a way to get a higher turnout.

Council Member Campbell discussed concern regarding the City's issues getting

'lost' when they are included on a ballot where there are so many statewide items being voted on.

Mayor Patterson discussed a study that was done by the University of Chicago on voter turnout and participation.

Council Member Schwartzman stated that it was his understanding that the other cities in the county who are on even year election cycles don't have an issue with a lack of voter participation.

Public Comment:

1. Dennis Lowry - Mr. Lowry - Mr. Lowry asked that when this item is brought back, information on term dates, laws regarding increasing terms/decreasing terms, etc. is provided. That would provide clarity for the public.

Mayor Patterson gave direction to staff to prepare an ordinance to present to Council, along with a public outreach process.

Council Member Schwartzman clarified that if their terms were extended, Council Members Hughes and Schwartzman's terms would end in 2014, and all other elected officials' terms would end in 2016.

IX. ADJOURNMENT:

Mayor Patterson adjourned the meeting at 9:31 p.m.

Lisa Wolfe, City Clerk