

MINUTES OF THE
SPECIAL JOINT CITY COUNCIL/BUSD MEETING
FEBRUARY 16, 2006

The special joint meeting of the City Council/BUSD was called to order by Mayor Steve Messina at p.m. on Tuesday, February 16, 2006, in the School Board Chambers, Benicia Unified School District, 350 East K Street, complete proceedings of which are recorded on tape.

ROLL CALL:

Present: Council Members Hughes, Patterson, Schwartzman, Whitney, Mayor Messina, President Fulton, Trustees Blomdal, Samiljan, and Steinmann
Absent: Trustee Switzer (arrived after roll call)

PLEDGE OF ALLEGIANCE

Mr. Rufus Bunch led the pledge to the flag.

FUNDAMENTAL RIGHTS:

Mayor Messina referenced 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). A copy of the fundamental rights was posted at the entrance of the School Board Chambers.

ADOPTION OF AGENDA

On motion of Vice Mayor Schwartzman, seconded by Council Member Whitney, the Agenda was adopted, on roll call by the following vote:

Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, Mayor Messina, President Fulton, Trustees Blomdal, Samiljan, and Steinmann

Noes:

Absent: Trustee Switzer

ACTION ITEMS:

Consideration and approval of Joint Use Agreements with Benicia Unified School District:

Mr. Erickson stated that City and BUSD staffs have met many times to try and reconcile their opinions into a common agreement that everyone could agree on. If the agreement were approved, the mutual facilities would be able to be used together. In addition, the community could see a significant upgrade of the fields at the various school sites. Annual maintenance of those fields would be tended to as well. The City will invest approximately \$1 million dollars in field improvements. It will cost \$450,000 per year to maintain the fields. BUSD would make school facilities available to the City per exhibit A. City and BUSD staffs have hammered out most of the issues. Still pending is the 'early termination' issue. Another issue is the use of 'rooms' at the schools. The present draft speaks to the City's ability to use one vacant classroom at each school site. That has created some considerable anxiety with various interested parties. Another issue involves the Mills/Liberty site. There is currently a reuse study going on. The City needs to figure

out if the changes could be made to that particular agreement or if that agreement needs to be passed on at this time.

President Fulton stated that there was a School District Liaison Committee meeting this morning. The Committee discussed the issue of the use of rooms at the school sites, as well as the City's use of the Mills/Liberty site. Most of the Trustees were reticent to include classrooms in the agreement. The original agreement was field related and was to include multi-purpose rooms. The use of additional rooms was added on later. The Trustees would like to take the issue of classrooms off of the table at this time. BUSD operates childcare facilities at each site. They do not want those sites compromised.

Council Member Whitney stated that his take on the meeting was that he became clearer on the School Board's position with regards to the rooms. The suggestion was that it be taken off the table and revisited at another time. The School Board also became clearer that Council was talking about vacant portables. He wanted to concur that this issue should be taken off the table. He stated that City Staff agreed that this issue should not be a deal breaker.

Council Member Patterson suggested adding language to give direction to the Joint Management Committee that one of the things they would look at is the consideration of the addition of the rooms so it is not lost in the agreement.

Vice Mayor Schwartzman stated that if it is clear that, the agreement is talking about vacant portables, and if we are talking about 'year to year', he was not sure why it wouldn't be left in the agreement. If there is nothing available right now, it is a non-issue, but annually it could be looked at.

Trustee Samiljan stated that she was not sure sending the issue of the classrooms to the Joint Use Management Committee, as mostly grounds personnel staff it. The School District Liaison Committee should discuss it. The insertion of classrooms into the agreement has caused a lot of anxiety with BUSD staff. It would be easier to pull the issue out of the agreement and be discussed at a later date.

Mayor Messina suggested strike the word 'rooms' on page VII-A-9.

Council Member Hughes stated that this morning's School District Liaison Committee meeting was productive. He discussed the need for additional childcare facilities in the community. There needs to be a win-win situation for both the City and BUSD. He would prefer the issue of classrooms stay in the agreement. However, he is not willing to let it be a deal breaker. This is a community, which the schools are a big part of. This needs to be addressed as a community. He concurred that the issue should be stricken from the agreement, but kept close at hand.

Vice Mayor Schwartzman reaffirmed not wanting to remove the classrooms from the agreement. He wondered if there was a way to leave it in, but make it reasonably comfortable for both the City and BUSD.

Council Member Patterson stated that taking ‘rooms’ out, but directing the Joint Use Management Committee to take a look at the issue would prevent it from getting lost and forgotten. She does not want to put salt in the wounds felt by staff from other district issues. The agreement has taken way too long to get approved. The issue should be removed from the agreement and referred to the Joint Use Management Committee.

Mr. Erickson stated that the use of an intermediate school site for after-school recreation program was an idea.

Trustee Samiljan clarified that the concern of the use of rooms was primarily an issue at the elementary school sites.

Mr. Alvarez described the need for having a room available at the elementary schools for the after school care facility. Using the multi-purpose rooms would create a lot of scheduling difficulties, as the sites are using them quite often.

President Fulton stated that the use of the Mills site needs to be studied.

Vice Mayor Schwartzman stated that maybe the elementary school rooms could be removed from the agreement, but the Middle school could be left in, as it seems like there is openness for a room at that site.

Mayor Messina suggested the Trustees and Council should move on and discuss the agreement itself.

Council Member Whitney stated that he was tired of the slow pace on this agreement. It is time to take action on the agreement. He takes the School Board at its word that the issue of rooms could be revisited in the future.

- Regarding the issue striking the deletion of ‘rooms’ from the agreement: Council Members Hughes, Patterson, Whitney, and Mayor Messina agreed to remove ‘rooms’. Vice Mayor Schwartzman voted against removing ‘rooms’ from the agreement. All Trustees voted in favor of striking ‘rooms’ from the agreement.
- Page 6 (of the Joint Use Agreement): Heather McLaughlin, City Attorney, stated that ‘rooms’ refers to gym, multi-use, classroom, etc. She suggested taking out the language ‘at least one classroom’.

Council Member Whitney asked if the City’s pool was included in the agreement. Mr. Alvarez confirmed it was included in the agreement.

Council and Trustees gave direction to Staff to make the document consistent with removing ‘classrooms’ from document.

- The issue of ‘capital improvement of fields’: Regarding the issue of ‘not to exceed \$1 million’, Trustee Samiljan asked if there was a minimum amount that would be spent.

Mr. Alvarez stated that on page VI-A-2, the costs are broken down by site. President Fulton reviewed the amounts listed by site on page VI-A-2. Those numbers would be referenced as an exhibit in the agreement. The Middle School has an existing agreement, for which there were no proposed changes. Mary Farmer is not part of the agreement. It is part of the blanket agreement for use of the facilities. The Middle School agreement has been tailored to the proposed agreement.

President Fulton asked about timeframes for commencement of the agreements. Mr. Alvarez stated that City Staff has to meet the legal requirements of AB 1600. They are working on that study at this time. The study may take 120 days. City Staff would start to gear up with regards to how the work would be done. They could go directly to contractors. That will also save some money. The improvements to all four campuses could be completed in 2-3 years. The High School site is the most critical.

Council Member Patterson suggested creating an exhibit detailing a proposed project schedule. City Staff will prepare that exhibit.

- Page 4:
Mayor Messina discussed the schedule at the bottom of the page. He discussed the issue of the possibility of BUSD pulling out of the agreement, amortization fees, etc. He suggested deleting option 1 under section 2 (d) delete the right hand column. All Council Members and Trustees agreed to the suggested change.

Vice Mayor Schwartzman referenced a letter Council received. He asked how CSEA plays into the picture.

Trustee Samiljan stated that she sits on the negotiation team for CSEA 735 and 361. They went through the agreement earlier this afternoon. She felt that many points were clarified and tensions were eased.

President Fulton stated that the School Board has been advised that the Joint Use Agreement does not breach the Collective Bargaining Agreements.

Council Member Hughes stated that the time listed in the agreement needed to be cleaned up. Mr. Alvarez stated that part of the agreement references work schedules and part is for maintenance.

- Page 5:
President Fulton had an issue with paragraph (b) on page 5 of the Joint Use Agreement. It is vague. He would like to see the exhibits attached detailing maintenance costs.
- Page 6:
President Fulton reiterated the need for deleting reference to 'rooms' from this section.

- Page 7:
Mayor Messina discussed scheduling. The most important thing to him is a mechanism for opening up the multi-purpose rooms and gyms to the community. He is uncomfortable with making the citizens have to go to different locations for different things. He likes the 'one-stop-shop' idea.

President Fulton stated that he preferred the current language with regards to scheduling.

Mr. Alvarez reviewed how the City schedules its facilities.

Ms. Dennis reviewed how BUSD schedules its facilities. The City and BUSD would have master copies of the schedules.

Mr. Alvarez suggested the use of a computer scheduling program that could be accessed by the City and BUSD. City Staff has such a program that works. He suggested BUSD look into such a program.

- Page 8:
Trustee Blomdal asked for clarification on security and custodial issues. Ms. Dennis referred to line 5 of paragraph (d). She reviewed the proposed procedures. Ms. Dennis stated that the procedures are in conjunction with BUSD labor contracts. Trustee Blomdal discussed the admission fees. There was some initial discussion about creating a fund for the fees collected. Ms. Dennis stated that BUSD uses City sites as well, which they benefit from. It is not a one-way street.
- Page 9:
President Fulton stated that he had a concern with 'utilities costs'. Staff confirmed that the numbers would be filled in on each separate agreement.
- Page 10:
No issues stated.
- Page 11:
No issues stated.
- Page 12:
No issues stated.
- Page 13:
Vice Mayor Schwartzman stated that Council had a recommendation regarding inserting after 'if the agreement is terminated' the language 'by the District.'

Council Member Patterson asked if they could consider having the issue of termination go to the Joint Use Management Committee for discussion and resolution. A more friendly approach could be taken. She suggested giving direction

to change the agreement referring the course of action to the Joint Use Management Committee. They could create some alternative dispute resolution alternatives.

Trustee Samiljan suggested if this were going to be done, a time limit should be imposed. Council and Trustees agreed that 'in a timely manner' or 'a reasonable time' should be used.

Mr. Thomas Carey, BUSD Attorney, raised concerns with paragraph (j). The party giving notice would retain the ability to terminate. He stated that the City's Counsel has agreed to make the suggested change (in earlier discussions).

- Page 14:

Council Member Patterson discussed paragraph (o). She asked if the Joint Use Management Committee was subject to the Brown Act or the City's open government ordinance. Both the Council and Trustees agreed to add expressed language to the agreement to reflect that the committee will be subject to the Brown Act and the City's Open Government Ordinance.

Trustee Samiljan had a concern with paragraph (o) with regards to staffing. The Director of Maintenance may not always be available for meetings. There was discussion regarding changing the language to read 'or designee.'

Council Member Patterson suggested having alternates for the committees. Mayor Messina stated that it would make the committee too large (approximately 18 people).

Trustee Switzer stated that the earlier meeting's conversation meant for the term 'designee' to reflect 'alternate'.

Mr. Alvarez discussed the importance of having the persons on the commissions present at the meetings. They will be involved in the day-to-day operations. It would be critical to have them there to make the agreement work.

Council Member Whitney stated that it is time to move on and approve the document.

Vice Mayor Schwartzman clarified that the committee would be 10 members.

All Trustees and Council Members agreed there would be no changes regarding this issue on paragraph (o).

- Page 15:

Mr. Alvarez discussed the preparation of the annual report listed on page 15. He stated that June 1st would be better for the report due to BUSD staff.

President Fulton stated that the District does not want to act on an agreement for Mills/Liberty site because of the reuse study.

OPPORTUNITY FOR PUBLIC COMMENT:

1. Bill Markley – Mr. Markley stated that the City is getting a better deal with this agreement. However, the agreement is better than it was last year. The multi-purpose rooms will be an issue. The rooms are used three days per week. The schools are already heavily used after school and on weekends.
2. Scott Price – Mr. Price thanked BUSD for talking to them earlier today. A lot of his concerns were clarified. He reminded everyone that they have the right to come and bargain the cause and effect of the document after it is passed.
3. Manuela Borges – Ms. Borges stated that she was glad the rooms were taken off the agreement. She is concerned they will be ‘kept close at hand’. We need to look at who makes up the committee. There may be a conflict.
4. Nancy Parent-Smith – Ms. Parent-Smith requested that if the issue of ‘rooms’ were brought up, she would like the CSA Members be contacted beforehand. They would like to receive advance notice of the discussion.
5. Jim Cavanaugh – Mr. Cavanaugh stated that he heard comments there was no labor dispute regarding the MOU. He asked if the MOU was legally okay. Regarding the Joint Use Management Committee, there is no labor groups represented.
6. Nell DaSilva – Ms. DaSilva commented on the issue of ‘going out to bid’, how will the City verify the laborers receive background checks. The contractors will be working around the school children. That needs to be addressed in the agreement.

Joint Use Agreement for Benicia High School:

On motion of Council Member Patterson, seconded by Council Member Whitney, the agreement was approved, as modified by tonight’s discussion, on roll call by the following vote:

Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina
Noes: None

On motion of Trustee Switzer, seconded by Trustee Steinmann, the agreement was approved, as modified by tonight’s discussion, on roll call by the following vote:

Ayes: Trustees Fulton, Blomdal, Samiljan, Steinmann, and Switzer
Noes: None

Joint Use Agreement for Joe Henderson Elementary:

On motion of Council Member Whitney, seconded by Council Member Hughes, the agreement was approved, as modified by tonight’s discussion, on roll call by the following vote:

Ayes: Council Members Hughes, Patterson, Schwartzman, and Whitney
Noes: None
Abstain: Mayor Messina

On motion of Trustee Samiljan, seconded by Trustee Blomdal, the agreement was approved, as modified by tonight's discussion, on roll call by the following vote:
Ayes: Trustees Fulton, Blomdal, Samiljan, Steinmann, and Switzer
Noes: None

Joint Use Agreement for Robert Semple Elementary:

On motion of Council Member Whitney, seconded by Council Member Hughes, the agreement was approved, as modified by tonight's discussion, on roll call by the following vote:
Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina
Noes: None

On motion of Trustee Steinmann, seconded by Trustee Blomdal, the agreement was approved, as modified by tonight's discussion, on roll call by the following vote:
Ayes: Trustees Fulton, Blomdal, Samiljan, Steinmann, and Switzer
Noes: None

ADJOURNMENT:

Mayor Messina adjourned the meeting at 6:23 p.m.

Lisa Wolfe, City Clerk