

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
March 03, 2015

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 Closed Session to order at 6:00 p.m.

All Council Members were present.

II. CLOSED SESSION:

A. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

(Subdivision (a) of Government Code Section 54956.9)

Name of Case: Martino v. City of Benicia (one case)

B. CONFERENCE WITH LABOR NEGOTIATOR

(Government Code Section 54957.6 (a))

Agency negotiators: City Manager, Assistant City Manager and HR Analyst

Employee organization: Benicia Public Service Employees'

Association (BPSEA) - Part-time

C. PUBLIC EMPLOYEE PERFORMANCE EVALUATION

(Subdivision (b) of Government Code Section 54957)

Title: City Manager

III. CONVENE OPEN SESSION:

Mayor Patterson called the Open Session to order at 7:02 p.m.

A. ROLL CALL

All Council Members were present.

B. PLEDGE OF ALLEGIANCE

Boy Scout Troop #495 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.

Mayor Patterson reported the following actions taken during Closed Session:

III.A - Council gave direction to Staff.

III.B - Council gave direction to Staff.

III.C - Council conducted the public employee performance evaluation on the City Manager.

2. Openings on Boards and Commissions:

Arts & Culture Commission

1 unexpired term

Open until filled

Finance Committee

1 full term

Open until filled

SolTrans Public Advisory Committee

1 full term

Open until filled

3. Mayor's Office Hours:

4. Boards and Commissions - Council Subcommittee Recommendations:

Subcommittee recommendation to Mayor of Alfred Ignacio to the Civil Service Commission for full term ending January 30, 2019

Subcommittee recommendation to Mayor of Gary Montgomery to the Civil Service Commission for full term ending January 30, 2019

Subcommittee recommendation to Mayor of Craig Snider to the Community Sustainability Commission for full term ending January 30, 2019

Subcommittee recommendation to Mayor of David Lindsay to the Community Sustainability Commission for an unexpired term ending

July 31, 2017

Subcommittee recommendation to Mayor of John Potter to the Finance Committee for full term ending January 30, 2019

Subcommittee recommendation to Mayor of Stacy Keyes to the Human Services Board for an unexpired term ending July 31, 2017

Subcommittee recommendation to Mayor of Ruth Workman to the Library Board of Trustees for full term ending January 30, 2018

Subcommittee recommendation to Mayor of Carole Nail to the Library Board of Trustees for full term ending January 30, 2018

Subcommittee recommendation to Mayor of George Oakes to the Planning Commission for full term ending January 30, 2019

Subcommittee recommendation to Mayor of Elizabeth Radke to the Planning Commission for full term ending January 30, 2019

Subcommittee recommendation to Mayor of James Cook to the SolTrans Public Advisory Committee for full term ending January 30, 2018

Subcommittee recommendation to Mayor of Dan Smith to the SolTrans Public Advisory Committee for full term ending January 30, 2018

Subcommittee recommendation to Mayor of Ernie Gutierrez to the Parks, Recreation & Cemetery Commission for a full term ending January 30, 2019

Subcommittee recommendation to Mayor of Rufus Bunch to the Parks, Recreation & Cemetery Commission for a full term ending January 30, 2019

Subcommittee recommendation to Mayor of Ann Brooner to the Parks, Recreation & Cemetery Commission for a full term ending January 30, 2019

Additional Board and Commission Applicants' names:

Guy Benjamin, Planning Commission

Kari Birdseye, Planning Commission and Sustainability Commission

Judith Boyle, Board of Library Trustees

Michael Boyle, Parks, Recreation & Cemetery Commission

Ed Ruszel, Planning Commission

Craig Snider, Planning Commission

Gayle Vaughan, Planning Commission

B. PROCLAMATIONS

1. **IN RECOGNITION OF SUNSHINE WEEK - MARCH 15 - 21, 2015**
2. **IN RECOGNITION OF WOMEN'S HISTORY MONTH AND INTERNATIONAL WOMEN'S DAY - MARCH 8, 2015**

C. APPOINTMENTS

D. PRESENTATIONS

1. **ANNUAL LIBRARY PRESENTATION**

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

VI. OPPORTUNITY FOR PUBLIC COMMENT:

A. WRITTEN COMMENT

Two items received (copies on file).

B. PUBLIC COMMENT

1. Andres Soto - Mr. Soto discussed the Bay Area Air Quality Management District's (BAAQMD) report at the 2/17/15 City Council meeting.
2. Mary Frances Kelly Poh - Ms. Kelly Poh discussed a survey call she received at home regarding pollution in the storm drains, water usage, and pollution.
3. Patty Gavin - Ms. Gavin invited the community to the unveiling of 'Wind,

Water, Land', the public art piece on 3/21/15 at the Benicia Community Center.

VII. CONSENT CALENDAR:

Council Member Campbell noted that he would abstain from voting on item VII.C due to a conflict of interest (His building is close to where the incident occurred.).

- A. APPROVAL OF THE MINUTES OF THE FEBRUARY 17, 2015
REGULAR COUNCIL MEETING**
- B. DENIAL OF CLAIM AGAINST THE CITY BY J. GARRY HEATON AND
REFERRAL TO INSURANCE CARRIER**

Heather McLaughlin, City Attorney, reviewed the staff report.

Public comment:

- 1. Garry Heaton - Mr. Heaton discussed the reason for his claim. He asked Council to deny the denial and approve his claim. He discussed concern regarding City staff not filling potholes.

Council Member Schwartzman and Staff briefly discussed how the City addresses the issue of potholes.

Council Member Campbell asked what evidence the City had regarding the claim (pictures of car, pothole, etc.).

Vice Mayor Hughes discussed Staff's recommendation to deny the claim. He recommended paying the claim.

Council Member Strawbridge asked if the pothole was fixed (it was). She discussed the condition of the City's streets. She recommended paying the claim.

Brad Kilger, City Manager, discussed the required staff time to investigate such a claim, setting precedent, and the odds of getting more of this type of claim if it is paid.

Council Member Schwartzman discussed the need to fix the streets, and concern about setting precedent.

Council gave direction to Staff to ask a few more questions and to pay the claim if the answers are satisfactory to the City Attorney.

On motion of Council Member Hughes, seconded by Council Member Strawbridge, Council gave direction to Staff to ask a few more questions and to pay the claim if the answers are satisfactory to the City Attorney, on roll call by the following vote:

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

C. DENIAL OF CLAIM AGAINST THE CITY BY BRANDON A. KOFF AND REFERRAL TO INSURANCE CARRIER

On motion of Council Member Schwartzman, seconded by Council Member Strawbridge, Council approved the denial of claim against the City by Brandon A. Koff, and referral to insurance carrier, on roll call by the following vote:

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

D. APPROVAL OF A CONTRACT AMENDMENT AND BUDGET MODIFICATION FOR BUILDING OFFICIAL, PLAN REVIEW AND INSPECTION SERVICES

RESOLUTION 15-18 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING A CONTRACT AMENDMENT IN THE AMOUNT NOT-TO-EXCEED \$120,000 FOR FISCAL YEAR 2014-2015 WITH BUREAU VERITAS FOR BUILDING OFFICIAL, PLAN REVIEW AND INSPECTION SERVICES, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

E. EXECUTIVE SUMMARY FOR ENTERPRISE RESOURCE PLANNING REQUEST FOR PROPOSAL

Karin Schnaider, Finance Director, reviewed the staff report.

Public Comment:

1. Dennis Lowry - Mr. Lowry discussed how this agenda item came about. He wondered if the program would be able to generate reports on an as-needed basis for Staff and Council.

F. MARIN CLEAN ENERGY (MCE) OUTREACH PLAN IMPLEMENTATION - MONTHLY UPDATE

Brad Kilger, City Manager, briefly reviewed the staff report.

Public Comment:

1. Dennis Lowry - Mr. Lowry discussed concern regarding the plain envelope he received in the mail. The information that was in the mailer was too much like a sales pitch. He discussed concerns regarding the opt-out process.

Mayor Patterson discussed the importance of reducing greenhouse gasses and her support for MCE. She asked Staff to schedule MCE to attend the next meeting so they can answer questions from the public and Council. She discussed other communities that have gone with MCE.

Council Member Strawbridge wished MCE had been at tonight's meeting to answer questions from Council and the public to get an update on how the program was going. She would like to revisit what happens if the City does not get close to 70% enrollment.

Council Member Campbell discussed how the City's solar panel rebates might be affected, and the issue of the City's participation level.

Council Member Schwartzman stated he would bring Mr. Lowry's concerns at MCE's next board meeting.

Staff stated they would their best to schedule MCE at the next Council meeting.

G. REVIEW OF JANUARY WATER REPORT

Graham Wadsworth, Public Works Director, reviewed the staff report. Mayor Patterson stated that overall, we need to do a better job on a daily basis with conserving water, and we need to keep up the effort of finding water use efficiency (not watering lawns and replacing them, etc.).

Mr. Wadsworth clarified that overall we need to do a better job with indoor water use.

Public Comment:

None

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

VIII. BUSINESS ITEMS:

A. OVERVIEW OF CITY INVESTMENT PORTFOLIO

Karin Schnaider, Finance Director, introduced the staff report.

Carlos Oblites, Director, PFM Asset Management, LLC, reviewed the PowerPoint presentation.

Vice Mayor Hughes and Staff discussed the issue of selling bonds, and the City's total return for the period ending 12/31/14, and the value of having someone managing the City's portfolio.

Council Member Schwartzman and Staff discussed whether the City should entertain making a higher percentage towards either a longer or shorter duration.

Council Member Campbell and Staff discussed the CPI, buying power, and the need to find something different to improve the City's portfolio. He would like PFM to come up with something new, different, and original, working within the parameters.

Council Member Schwartzman and Staff discussed the issue of inflation, investment options, and the Bay Area inflation index.

Council Member Strawbridge discussed the City's overall net income compared to the investment made for the management of its portfolio.

Mayor Patterson discussed investment restrictions that cities have to follow. She and Staff discussed how Benicia's investments compared to other cities.

Council Member Campbell discussed the possibility of accelerating the City's purchases rather than letting the money just sit there.

On motion of Council Member Hughes, seconded by Council Member Schwartzman, Council received the overview of the City Investment Portfolio, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge

Noes: (None)

B. REVIEW OF BENICIA MUNICIPAL CODE REGULATIONS GOVERNING PERMITTED HOURS OF CONSTRUCTION (BENICIA MUNICIPAL CODE SECTION 8.20.150)

Dan Marks, Interim Community Development Director, reviewed the staff report and Staff's recommendation.

Mayor Patterson and Staff discussed what the solution would be if there was residential housing within 500 feet of the construction.

Council Member Schwartzman discussed cutting the construction hours in residential areas - possibly 7:00 a.m. to 7:00 p.m. during the week and 8:00 a.m. to 7:00 p.m. on Saturdays. He and Staff discussed outdoor/indoor construction and residential/commercial construction.

Vice Mayor Hughes discussed the need to review the hours (too long), looking at what other cities are doing, and the issue of homeowner vs. contractor construction work.

Staff discussed the possibility of looking at the hours issue rather than the entire code.

Council Member Campbell and Staff discussed the need to give reasonable parameters before it is sent to the Planning Commission.

Mayor Patterson discussed having the Planning Commission hold a study session and invite the stakeholders so they could weigh in.

Vice Mayor Hughes preferred to leave it up to Staff to decide what method they feel would be best.

Council gave direction to Staff to consider a couple of approaches for going forward with a construction noise ordinance.

On motion of Council Member Hughes, seconded by Council Member Schwartzman, Council gave direction to Staff to consider a couple of approaches for going forward with a construction noise ordinance, on roll call by the following vote:

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

IX. ADJOURNMENT:

Mayor Patterson adjourned the meeting at 9:36 p.m.