

MINUTES OF THE
SPECIAL MEETING – CITY COUNCIL
MARCH 4, 2008

The special meeting of the City Council of the City of Benicia was called to order by Mayor Elizabeth Patterson at 6:31 p.m. on Tuesday, March 4, 2008, 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, Schwartzman, and Mayor Patterson

Absent: None

PLEDGE OF ALLEGIANCE:

Mayor Patterson 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).

OPPORTUNITY FOR PUBLIC COMMENT:

None

ANNOUNCEMENT OF CLOSED SESSION:

Lisa Wolfe, City Clerk, read the announcement of Closed Session

CLOSED SESSION:

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Government Code Section §54956.8)

Approval of the land exchange proposal from the property owner at 1356 West K Street

Negotiating parties: City Manager, City Attorney, Public Works Director

ADJOURNMENT:

Mayor Patterson adjourned the meeting at 6:33 p.m.

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
MARCH 4, 2008

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Elizabeth Patterson at 7:00 p.m. on Tuesday, March 4, 2008, 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, Schwartzman, and Mayor Patterson

Absent: None

PLEDGE OF ALLEGIANCE:

Lisa Wolfe, City Clerk 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:

Action taken at Closed Session:

Ms. McLaughlin stated that Council met in Closed Session to discuss the land exchange proposal from the property owner at 1356 West K Street. Council gave direction to Staff to proceed ahead. The matter will go through the usual process and be brought back to Council at a future time.

Openings on Boards and Commissions:

- Historic Preservation Review Commission:
Two full terms to February 28, 2012
One unexpired term to February 28, 2009
- Sky Valley Open Space Committee:
One unexpired term to September 30, 2010
- Human Services and Arts Board:
One unexpired term to June 30, 2009

City's Commission Appointment Process – Ad Hoc Subcommittee:

Mayor Patterson and Council Member Schwartzman were appointed to the Appointment Process Ad Hoc Subcommittee.

Mayor Patterson reviewed the reasons for the subcommittee being formed and its purpose.

Council and Staff discussed the past practices for making appointments, previous Council discussion on the appointment process, possibly delaying the scheduled appointments to the HPRC so that the subcommittee could look into the process and make suggestions, engaging the public in the appointment process, not delaying the scheduled appointments, time spent interviewing and choosing the proposed appointees,

Public Comment:

1. Jon Van Landschoot - Mr. Van Landschoot discussed ex-post-facto law, HPRC's meeting schedule, the appointment process, the time it would take to get new commissioners up to speed, and his support of moving forward with the proposed HPRC appointments.
2. Gretchen Burgess – Ms. Burgess discussed the appointment process and her support of moving forward with the proposed HPRC appointments.

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 746-4210 or by email acardwell@ci.benicia.ca.us.

APPOINTMENTS:

RESOLUTION 08-14 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF DAVID CROMPTON TO THE HISTORIC PRESERVATION REVIEW COMMISSION TO A FULL TERM ENDING FEBRUARY 28, 2012

The above Resolution was adopted, on roll call by the following vote:

Ayes: Council Members Campbell, Hughes, and Mayor Patterson

Noes: Council Members Ioakimedes and Schwartzman

RESOLUTION 08-15 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF LEANN TAAGEPERA TO THE HISTORIC PRESERVATION REVIEW COMMISSION TO A FULL TERM ENDING FEBRUARY 28, 2012

The above Resolution was adopted, on roll call by the following vote:

Ayes: Council Members Campbell, Ioakimedes and Mayor Patterson

Noes: Council Members Hughes and Schwartzman

RESOLUTION 08-16 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF STEVE MCKEE TO THE HISTORIC PRESERVATION REVIEW COMMISSION TO AN UNEXPIRED TERM ENDING FEBRUARY 28, 2009

The above Resolution was adopted, on roll call by the following vote:

Ayes: Council Members Campbell, Hughes, and Mayor Patterson

Noes: Council Members Ioakimedes and Schwartzman

PRESENTATIONS:

None

PROCLAMATIONS:

None

ADOPTION OF AGENDA:

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

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

Noes: None

OPPORTUNITY FOR PUBLIC COMMENT:

WRITTEN:

PUBLIC COMMENT:

1. Ann Hansen – Ms. Hansen discussed the work that is being done on the Benicia Historical Museum garden, the work Jamie Delahaye did to the entrances to building #7, and the museum's efforts to get the inside of building #7 ready. Ms. Hansen invited everyone to attend her 80th birthday celebration at the Museum on 4/8/08.
2. Marilyn Bardet – Ms. Bardet discussed the issue of the microphone system being hard to hear in the front portion of Council chambers, the presentation she gave at the 2/19/08 Council meeting, Leadership in Energy and Environmental Design – Neighborhood Development (LEED-ND), Mr. Steinmann's presentation, her understanding of what Council approved at the 2/19/08 Council meeting (LEED certification and Low Impact Development (LID)), sustainability, and having LEED spelled out in the 2/19/08 Council meeting minutes, and having the sustainability task force as a Council agenda item.

CONSENT CALENDAR:

Council pulled items VII-A and VII-B.

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

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

Noes: None

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

(END OF CONSENT CALENDAR)

Council took the following actions:

Approval of the Minutes of January 29, 2008, February 15, 2008, and February 19, 2008:

Mayor Patterson stated that there were concerns regarding the content of the minutes of February 19, 2008. She would like those pulled and continued.

On motion of Council Member Schwartzman, seconded by Council Member Campbell, the Minutes of January 29, 2008 and February 15, 2008 were approved, on roll call by the following vote:

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

Noes: None

Approval of the Minutes of February 19, 2008:

Council Member Schwartzman stated that he understood the minutes needed to be reworked, however as the maker of the motion for the resolution, LEED was in there, but Low Impact Development (LID) was not.

Public Comment:

1. Marilyn Bardet – Ms. Bardet discussed her understanding that Council Member Schwartzman did not reject LID as a consideration, LID being embraced in the LEED-ND condition, and Council Member Schwartzman’s reference to Mr. Steinmann’s presentation.

Council Member Schwartzman discussed his recollection that he specifically stated when the LID was suggested that he was not inclined to add it to the motion.

Council Member Ioakimedes requested copies of the written transcripts from the portion of the meeting when the motion was made to adopt the resolution certifying the Seeno EIR.

This item was continued to the next Council meeting.

Adoption of a resolution amending the Rules of Procedure:

Heather McLaughlin, City Attorney, reviewed the staff report.

Council and Staff discussed the appointment process, consent calendar, time limit for public comment, time limit for public hearings, and public comment on appointments.

RESOLUTION 08-17 - A RESOLUTION ADOPTING THE RULES OF PROCEDURE FOR THE CONDUCT OF CITY COUNCIL MEETINGS

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

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

Noes: None

PUBLIC HEARINGS:

None

ACTION ITEMS:

Introduction and first reading of an ordinance for establishing permitting and regulatory requirements for massage therapists - Continued from February 19, 2008 City Council Meeting:

Sandra Spagnoli, Police Chief, reviewed the staff report. Chief Spagnoli suggested waiving City fees to current licensed massage businesses for compliance. Staff received an email from Terry Vacek listing three concerns: 1) fees, 2) the State law coming in to effect – she suggested the City wait to see what happens with the bill before it acts on the proposed ordinance, and 3) grandfather existing businesses or put the ordinance out 9-12 months, which would allow them to see what happens with the current legislation. Staff’s recommendation was for the City to continue to move forward so there would be some enforcement means and mechanisms to ensure there is no more unlawful activity in town as it relates to prostitution. Chief Spagnoli recommended adding language regarding male/female consenting adult massage, deleting the language requiring doors only being able to be opened inward, and clarifying the language on page IX-A-17 – third paragraph - the 90 days would be for new businesses coming into town. Existing businesses would be grandfathered in.

Council and Staff discussed the written and practical exam referenced in the proposed ordinance, 60 day timeframe to complete application and background check, background checks, transition and grand fathering clause, satisfactory proof of identification, number of therapists in the City who have a State license, massage therapist certification process, waiving the fees for existing businesses, issue of property/lease documentation, proof of malpractice/liability insurance, existing business permits, required physical/practical exam, annual permit renewal fee, outcalls and ADA compliance, in-home businesses and ADA compliance, and what was considered ‘minimal traffic.’

Public Comment:

1. Jeanine Seeds – Ms. Seeds asked whether City would lump the massage profession with card rooms or physicians.
2. Barbara Patrick, Lily of Gold – Ms. Patrick discussed the State certification process, physical and practical exam, permit requirements, fees, State regulations, striking the medical exam requirement from the ordinance, the need for more time to review the ordinance information, medical exam, and the issue serving alcohol.
3. Shawna Miller – Ms. Miller discussed concerns regarding fees, establishment fees, proposed testing process, proposed doctor exam, door locks, and the issue of serving alcohol in an establishment.
4. Susan Street – Ms. Street inquired about the genesis for the proposed ordinance, prostitution, concern regarding massage therapists being lumped together with card rooms and bars, and the need for more discussion on this issue.

5. Bradley Duet – Mr. Duet discussed the certification process, singling out one particular profession, and the State licensing process.
6. Gretchen Burgess – Ms. Burgess discussed her work on Benicia’s animal ordinances, her experience with massages, the need to rework the proposed ordinance, prostitution and madams, license requirements, sterilization procedures, double permit process, owner-operator license, 60-watt light bulbs, and classifying massage therapists as medical professionals.
7. Casey Blackmore – Ms. Blackmore discussed concerns regarding semantics (parlor, studio, spa, clinic, masseur, technician), timing of the proposed ordinance, and the need for more discussion on this.
8. Linda Tobey – Ms. Tobey discussed concerns regarding the medical testing and the certification process.
9. Tony Shannon – Mr. Shannon discussed concerns regarding practical exams, 60-watt light bulbs, florescent lights, classifying massage therapists, background checks, and prostitution.
10. Kimberly Snyder – Ms. Snyder discussed other industries where prostitution is possible, TB testing, concerns with the proposed physical exam and fees.

Mayor Patterson stated that there needed to be a meeting where everyone could sit down and discuss the concerns raised.

Council and Staff discussed industry regulations, medical testing, fees, protecting the community, protecting the reputable businesses, sending this item back for modifications to the dialogue, nexus between massage therapists and chiropractors, and chiropractic laws.

Mayor Patterson stated that an ordinance was needed, there is a need for additional dialogues, the process needed to be expedited, the light bulb issue needed to be taken seriously, and the medical direction and guidance should be looked into - it is needed to protect the therapists and public.

Mayor Patterson called for a 5-minute break.

Presentation of the Comprehensive Annual Financial Report for the Fiscal Year Ending June 30, 2007 and recognition of Certificate of Achievement for Excellence in Financial Reporting for the June 30, 2006 Report - Continued from February 19, 2008 City Council Meeting:

Rob Sousa, Finance Director, reviewed the staff report.

Council and Staff discussed the fact that the City did not own municipal bonds, property taxes, Gasby’s Rule 34, Marina seawall, storm water, expenditure related to the Valero property tax reimbursement, property tax agreement negotiated between the County and Valero, General Fund Reserve, and the Utility Users Tax.

On motion of Council Member Schwartzman, seconded by Council Member Ioakimedes, Council accepted the Comprehensive Annual Financial Report (CAFR) for the Fiscal

Year Ending June 30, 2007, and authorized Staff to distribute the document to recipient agencies, on roll call by the following vote:

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

Noes: None

INFORMATIONAL ITEMS:

Review of Mid-Year Budget Update for Fiscal Years 2007-09:

Rob Sousa, Finance Director, reviewed the staff report.

Council and Staff discussed adopted protocol for economic uncertainty, Intermodal Fund, the State's current economic decline, certificate of participation, Mills Community Center, the City of Vallejo's current financial troubles as they relate to public safety, the Mayor's recent meeting with the State Director of Parks and Recreation, energy costs, budget shortfall for the next three fiscal years – just short of \$1 million, and using a phased approach to upcoming projects.

Review of the updated top priorities and policy issues for 2007-09:

Mayor Patterson praised Staff's effort with the staff report.

Jim Erickson, City Manager, reviewed the staff report.

Council and Staff discussed the issue of each Council Member completing the form to rank the list of priorities.

Reports from City Manager:

None

COMMENTS FROM COUNCIL MEMBERS:

None

ADJOURNMENT:

Mayor Patterson adjourned the meeting at 10:37 p.m.

Lisa Wolfe, City Clerk