

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
March 06, 2012

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 meeting to order at 7:00 p.m.

II. CLOSED SESSION:

III. CONVENE OPEN SESSION:

A. ROLL CALL

All Council Members were present.

B. PLEDGE OF ALLEGIANCE

Ray Iverson led the Pledge of Allegiance.

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC.

IV. ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:

A. ANNOUNCEMENTS

Benicia Arsenal Update - Council Member Schwartzman reported that the subcommittee was trying to schedule a public meeting on March 26, 2012. Staff will post the confirmed meeting date and time on the City's website.

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

Ms. Kat Wellman, Contract Attorney, reported that Council took the following actions:

IV.A - Council gave direction to Staff.

IV.B - No reportable action taken.

IV.C - This item was removed from agenda and was not discussed.

2. Openings on Boards and Commissions:

Building Board of Appeals
2 full terms
Open Until Filled

Solano Transportation Authority Pedestrian Advisory Committee
2 full terms
Open Until Filled

3. Mayor’s Office Hours:

B. APPOINTMENTS

Mayor Patterson explained the appointment process. She encouraged citizens to apply to serve on the various boards and commissions.

Council Member Hughes explained the interview process. He explained how the Appointment Subcommittee interviewed and ranked each candidate. He was surprised that the subcommittee’s recommendations were not being appointed. He could not support the Planning Commission appointments for that reason.

Mayor Patterson discussed why she was appointing the various individuals.

Vice Mayor Campbell stated he would support the appointments, however he was surprised that the subcommittee's recommendations were not selected.

Council Member Schwartzman discussed the issue of diversity on the commissions. He would like to see a representative from the contractor field. He would like to see balance on the Planning Commission. He was surprised that the individuals that the subcommittee recommended strongly were not being appointed.

Public Comment:

None

1. Reappointment of Elaine Eisner to the Arts and Culture Commission for a four-year term ending January 31, 2016.

RESOLUTION 12-16 - A RESOLUTION CONFIRMING THE MAYOR’S REAPPOINTMENT OF ELAINE EISNER TO THE ARTS AND CULTURE COMMISSION A FOUR YEAR TERM ENDING JANUARY 31, 2016

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

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes

Noes: (None)

2. **Appointment of Susan Garske to the Arts and Culture Commission for a four-year term ending January 31, 2016.**

RESOLUTION 12-17 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF SUSAN GARSKE TO THE ARTS AND CULTURE COMMISSION FOR A FOUR YEAR TERM ENDING JANUARY 31, 2016

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

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes

Noes: (None)

3. **Reappointment of Patrice Gavin to the Arts and Culture Commission for a four-year term ending January 31, 2016.**

RESOLUTION 12-18 - A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENT OF PATRICE GAVIN TO THE ARTS AND CULTURE COMMISSION FOR A FOUR YEAR TERM ENDING JANUARY 31, 2016

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

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes

Noes: (None)

4. **Reappointment of Randy Ramos to the Benicia Housing Authority Board of Commissioners for a four-year term ending January 31, 2016.**

RESOLUTION 12-19 - A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENT OF RANDY RAMOS TO THE BENICIA HOUSING AUTHORITY BOARD OF COMMISSIONERS FOR A FOUR YEAR TERM ENDING JANUARY 31, 2016

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

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes

Noes: (None)

5. **Reappointment of Ruth M. Workman for a three-year term ending January 31, 2015.**

RESOLUTION 12-20 - A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENT OF RUTH WORKMAN TO THE BOARD OF LIBRARY TRUSTEES FOR A THREE YEAR TERM ENDING JANUARY 31, 2015

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

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes

Noes: (None)

6. **Reappointment of Carole Nail to the Board of Library Trustees for a three-year term ending January 31, 2015.**

RESOLUTION 12-21 - A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENT OF CAROLE NAIL TO THE BOARD OF LIBRARY TRUSTEES FOR A THREE YEAR TERM ENDING JANUARY 31, 2015

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

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes

Noes: (None)

7. **Appointment of Ellen D. Kolowich to the Economic Development Board for an unexpired term ending January 31, 2014.**

RESOLUTION 12-22 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF ELLEN D. KOLOWICH TO THE ECONOMIC DEVELOPMENT BOARD FOR AN UNEXPIRED TERM ENDING JULY 31, 2014

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

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes

Noes: (None)

8. **Appointment of Luis Delgado to the Historic Preservation Review Commission for a four-year term ending January 31, 2016.**

RESOLUTION 12-23 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF LUIS DELGADO TO THE HISTORIC PRESERVATION REVIEW COMMISSION FOR A FOUR YEAR TERM ENDING JANUARY 31, 2016

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

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes

Noes: (None)

9. **Appointment of Margaret Trumbly to the Historic Preservation Review Commission for a four-year term ending January 31, 2016.**

RESOLUTION 12-24 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF MARGARET TRUMBLY TO THE HISTORIC PRESERVATION REVIEW COMMISSION FOR A FOUR YEAR TERM ENDING JANUARY 31, 2016

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

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

10. Appointment of Susan Cohen Grossman to the Planning Commission for a four-year term ending January 31, 2016.

RESOLUTION 12-25 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF SUSAN COHEN GROSSMAN TO THE PLANNING COMMISSION FOR A FOUR YEAR TERM ENDING JANUARY 31, 2016

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

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

11. Appointment of Joan Shepard to the Planning Commission for a four-year term ending January 31, 2016.

RESOLUTION 12-26 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF JOAN SHEPARD TO THE PLANNING COMMISSION FOR A FOUR YEAR TERM ENDING JANUARY 31, 2016

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

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

12. Reappointment of Rod Sherry to the Planning Commission for a four year term ending January 31, 2016.

RESOLUTION 12-27 - A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENT OF ROD SHERRY TO THE PLANNING COMMISSION FOR A FOUR YEAR TERM ENDING JANUARY 31, 2016

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

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

13. Reappointment of Kathy Kerridge to the Sustainability Commission for a four-year term ending January 31, 2016.

RESOLUTION 12-28 - A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENT OF KATHY KERRIDGE TO THE SUSTAINABILITY COMMISSION FOR A FOUR YEAR TERM ENDING JANUARY 31, 2016

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

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

14. **Appointment of Larry Lauber to the Sky Valley Open Space Committee for a four-year term ending January 31, 2016.**

RESOLUTION 12-29 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF LARRY LAUBER TO THE SKY VALLEY OPEN SPACE COMMITTEE FOR A FOUR YEAR TERM ENDING JANUARY 31, 2016

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

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes

Noes: (None)

15. **Appointment of Joseph L. Wilder to the Uniform Code of Building Appeals for a four-year term ending January 31, 2016.**

RESOLUTION 12-30 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF JOSEPH L. WILDER TO THE UNIFORM CODE BOARD OF APPEALS FOR A THREE YEAR TERM ENDING JANUARY 31, 2015

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

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes

Noes: (None)

16. **Appointment of James G. Cook to the Soltrans Public Advisory Committee for a three-year term ending January 31, 2015.**

RESOLUTION 12-30 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF JAMES G. COOK TO THE SOLTRANS PUBLIC ADVISORY COMMITTEE FOR A THREE YEAR TERM ENDING JANUARY 31, 2015

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

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes

Noes: (None)

C. PRESENTATIONS

D. PROCLAMATIONS

1. **In Recognition of 2012 Women in Construction Week - March 4 - 10, 2012**
2. **In Recognition of Sunshine Week - March 11-17, 2012**

V. ADOPTION OF AGENDA:

On motion of Council Member Hughes, seconded by Council Member Strawbridge, 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

Mayor Patterson reviewed the 7 items received (copies on file).

B. PUBLIC COMMENT

1. Gretchen Burgess - Ms. Burgess discussed the need to include the allowance of bee keeping within the City's Animal Control Ordinance.

Staff clarified that the process is to look at any immediate priorities. A Council Member would need to decide if they wanted to bring this issue forward for discussion.

Council Member Schwartzman discussed support for a simple update, but not an in-depth review of the entire Animal Control Ordinance.

Ms. Wellman clarified that this was not an agenda item, and recommended Council agenda discussion on the issue.

2. Claudia Humphrey - Ms. Humphrey discussed the issue of domestic violence. She announced upcoming events they would be hosting to raise awareness of domestic violence.
3. Constance Beutel - Dr. Beutel discussed the Community Sustainability Commission's past and upcoming symposiums.
4. Elizabeth d'Huart, Benicia Historical Museum - Ms. d'Huart announced upcoming events at the Benicia Historical Museum.
5. Mayor Patterson - Mayor Patterson acknowledged Doug Comeau's retirement from Valero Refinery. She discussed his efforts and contributions to Benicia.

VII. CONSENT CALENDAR:

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

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes

Noes: (None)

A. APPROVAL OF MINUTES OF THE SPECIAL MEETING OF JANUARY 13, 2012, THE SPECIAL MEETING OF FEBRUARY 11, 2012 AND THE SPECIAL AND REGULAR MEETINGS OF FEBRUARY 21, 2012

On motion of Council Member Hughes, seconded by Council Member Strawbridge, Council approved the Minutes of the special meeting of January 13, 2012, the special meeting of February 11, 2012, and the special and regular meetings of February 21, 2012, on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes

Noes: (None)

B. DENIAL OF THE CLAIM AGAINST THE CITY BY KRISTIN KAISER AND REFERRAL TO INSURANCE CARRIER

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

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes

Noes: (None)

C. RESOLUTION AUTHORIZING AGREEMENT WITH WULFF HANSEN & CO. TO PROVIDE SERVICES AS INVESTMENT BANKER/UNDERWRITER RELATING TO TRANSACTIONS.

RESOLUTION AUTHORIZING AGREEMENT WITH WULFF HANSEN & CO. TO PROVIDE ANALYTICAL SERVICES UNRELATED TO A TRANSACTION AS FINANCIAL ADVISOR

RESOLUTION 12-32 - A RESOLUTION OF THE CITY COUNCIL APPOINTING WULFF HANSEN & CO. TO PROVIDE SERVICES AS INVESTMENT BANKER/UNDERWRITER TO THE CITY OF BENICIA

RESOLUTION 12-33 - A RESOLUTION OF THE CITY COUNCIL APPOINTING WULFF HANSEN & CO. TO PROVIDE SERVICES AS FINANCIAL ADVISOR TO THE CITY OF BENICIA

On motion of Council Member Hughes, seconded by Council Member Strawbridge, Council adopted Resolution 12-32, on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes

Noes: (None)

On motion of Council Member Hughes, seconded by Council Member Strawbridge, Council adopted Resolution 12-33, on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes

Noes: (None)

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

VIII. BUSINESS ITEMS:

- A. **CONTRACT AMENDMENT FOR WATTZON, AND ALLOCATION OF AN ADDITIONAL \$20,880 OF VALERO/GOOD NEIGHBOR STEERING COMMITTEE SETTLEMENT AGREEMENT FUNDS**

RESOLUTION 12-34 - A RESOLUTION APPROVING THE GRANT FUNDING REQUEST FROM WATTZON FOR A BENICIA COMMERCIAL BUILDING PILOT PROGRAM IN THE AMOUNT OF \$46,880 AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONTRACT ON BEHALF OF THE CITY

Gina Eleccion, Management Analyst, reviewed the staff report.

Council Member Hughes and Staff discussed the issue of the transfer from residential to commercial.

Council Member Schwartzman and Staff discussed the current residential program.

Martha Amram, WattzOn, discussed the issue of the hiatus of the residential program.

Vice Mayor Campbell and Ms. Amram discussed the involvement of the BHS Sage Team in the residential program.

Council Member Strawbridge discussed the momentum the residential program has had. She expressed concerns regarding taking a hiatus from the residential program. She supported their efforts in the Industrial Park.

Council Member Schwartzman and Staff discussed the issue of a final report on the residential program.

Public Comment:

1. Marilyn Bardet - Ms. Bardet discussed concern regarding the hiatus of the residential program. She supported doing the energy audits in the Industrial Park.
2. Janice Adams, Superintendent, BUSD - Ms. Adams expressed concern regarding the \$20,000 in residential funds being put on hiatus. The Echo Academy had planned to use some of the funds to train students/interns.
3. Gretchen Burgess - Ms. Burgess spoke in support of the residential program.

4. Kathy Kerridge - Ms. Kerridge spoke in support of the program. She hoped the \$20,000 would remain for the residential program.
5. Dana Dean - Ms. Dean spoke in support of the commercial/industrial pilot project. She hoped the residential program would not be cut/suspended.

Mayor Patterson and Staff discussed the \$20,000.

Ms. Amram confirmed WattzOn had the resources to do both the residential and commercial programs.

Council Member Hughes and Staff discussed the Good Neighbor Steering Committee settlement.

Council Member Schwartzman and Staff discussed the issue of the commercial program helping businesses saving money. Council Member Schwartzman would like to increase the commercial funding to \$100,000, so more businesses could take advantage of the program.

Council Member Hughes expressed concern regarding the \$20,000 that was being used as a 'pilot' program for the commercial/industrial program.

Ms. Amram discussed the pilot program for the commercial/industrial program.

Council Member Schwartzman and Ms. Amram discussed the issue of funding, and if more became available, more commercial/industrial audits could be done.

Vice Mayor Campbell and Ms. Amram discussed the pilot program for the business/industrial program, and how the data collected over the six weeks would be used.

Brenden Millstein, Carbon Lighthouse, discussed how the commercial/industrial audit data was used.

Council Member Hughes expressed concern regarding allocating additional dollars for the business/industrial program. He was willing to go with it if a dollar amount was not allocated. The direction to Staff would be to look at what it would take, and consider the benefit of doing it.

Council Member Hughes clarified that his motion was to include maintaining the money for residential, add \$20,000 for commercial, and Council would provide direction to Staff to look at what the benefits would be if Council added additional dollars for commercial (respecting the process of the Community Sustainability Commission).

Staff clarified that the total funding request for this program was \$46,880. Staff needed clarification on whether Council was approving the initial request of

\$28,880 with an additional \$20,000 in unallocated funds. Council Member Hughes and Mayor Patterson confirmed that was correct. Staff clarified the City would retain the original \$20,000 in the residential program, but have a separate allocation for the entire amount.

Council Member Schwartzman would like to give direction to the CSC to look at and go through the process of additional (he threw out an amount of \$50,000) to work with WattzOn and see how that might be used. He suggested his comments be considered as a friendly amendment to Council Member Hughes' motion.

Staff discussed efforts to create a more robust commercial/industrial program.

Mayor Patterson clarified there was Council concurrence on working with Staff on augmenting a program, and there were different ways to do that. She thought that was part of the record, and it was clear enough (not to require an amendment to the motion). Council Member Schwartzman stated he wanted to be sure that was part of the record.

On motion of Council Member Hughes, seconded by Vice Mayor Campbell, Council adopted the Resolution, as amended, on roll call by the following vote:
Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes
Noes: (None)

B. EXTENSION OF CONTRACT FOR VEGETATION MANAGEMENT CONTRACTOR

RESOLUTION 12-35 - A RESOLUTION AWARDING A CONTRACT EXTENSION TO PROVIDE SERVICES FOR WEED ABATEMENT AND FIRE BREAKS OF CITY OWNED PROPERTIES AND OPEN SPACE AREAS FOR THE TERM OF THE CONTRACT EXTENSION TO APEX GRADING AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONTRACT ON BEHALF OF THE CITY

Chief Vecurevich and Ray Iverson, Fire Marshall, reviewed the staff report.

Council Member Schwartzman and Staff discussed any negative effects the goats have on the land/habitat.

Vice Mayor Campbell spoke in support of the goat program.

Public Comment:

1. Marilyn Bardet - Ms. Bardet discussed the effects the goats have on ecology. She suggested ensuring the goats were moved from any given spot before they eat the vegetation too low.

2. Gretchen Burgess - Ms. Burgess spoke in support of the goat program.

Mayor Patterson proposed asking the Sky Valley Open Space Committee to look into getting more information on the possibilities.

Vice Mayor Campbell and Staff discussed concerns regarding the cost of the program.

Council Member Strawbridge spoke in support of the program.

Council Member Schwartzman spoke in support of the program.

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

Ayes: Patterson, Strawbridge, Schwartzman, Hughes

Noes: Campbell

C. INTRODUCTION AND FIRST READING OF AN ORDINANCE AMENDING CHAPTER 13.35 EMERGENCY WATER CONSERVATION PLAN, INCLUDING LIMITS ON LANDSCAPE WATERING AND CAR WASHING DURING WATER SHORTAGES AND CLARIFICATION OF VIOLATION AND ENFORCEMENT PROVISIONS

ORDINANCE 12- - AN ORDINANCE AMENDING CHAPTER 13.35 (EMERGENCY WATER CONSERVATION PLAN) OF TITLE 13 (PUBLIC SERVICES) OF THE BENICIA MUNICIPAL CODE BY REPLACING IT IN ITS ENTIRETY

Carrie Wenslawski, Management Analyst, reviewed the staff report.

Council Member Hughes and Staff discussed the 'voluntary' prohibitions, enforcement, and the issue of the protection of mature trees.

Vice Mayor Campbell and Staff discussed the issue of drought conditions, and the need for smoother language. They discussed the rates that could be assessed if there were violations during a drought conditions.

Public Hearing Opened.

Public Comment:

1. Kathy Kerridge - Ms. Kerridge requested the addition of other trees and vegetable gardens be added to the section that addresses mature trees.

Public Hearing Closed.

Council Member Schwartzman and Staff discussed the appeal process.

Mayor Patterson discussed the need to address the appeal process to make it more user friendly, and being more aggressive about getting gray water involved.

On motion of Council Member Hughes, seconded by Council Member Strawbridge, Council approved the Introduction and first reading of the above Ordinance, on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes

Noes: (None)

D. APPROVAL OF AMENDMENT NO. 2 TO FEE DEFERRAL PAYMENT AGREEMENT WITH SURAJ INVESTMENT GROUP LLC (HOLIDAY INN)

RESOLUTION 12-36 - A RESOLUTION APPROVING AMENDMENT NO. 2 TO THE FEE DEFERRAL AGREEMENT WITH SURAJ INVESTMENT GROUP, LLC FOR THE HOLIDAY INN EXPRESS HOTEL PROJECT

Mario Giuliani, Acting Economic Development Manager, reviewed the staff report. He suggested the paragraph from VIII.B.46 be added into the resolution.

Council Member Schwartzman and Staff discussed the need to update the Fee Deferral Program.

Public Comment:

1. Hiten Suraj - Mr. Suraj spoke in support of the proposed amendment.
2. Bob Langston, City Treasurer - Mr. Langston spoke in opposition to the proposed amendment. He reviewed the emails he sent Council (copies on file) regarding the issue.

Ms. Wellman discussed the issue of a 'gift' from the City, as referred to by Mr. Langston.

Mr. Giuliani discussed the issue of a 'gift', penalties, and adding an EFT clause to the agreement.

Mayor Patterson asked if there was a motion to approve the Resolution, with an amendment adding the seven years (as an exception to the policy), and directing Staff to add the EFT clause to the contract.

Ms. Wellman clarified that the EFT clause would be added to the amendment to the actual agreement (Council's direction to Staff to amend the agreement, and the resolution supports the amendment, as amended).

Council Member Schwartzman discussed the issue of enforcement, gift of public

funds, EFT, surety bond, and not forgiving the penalty (cut the penalty in half and make it due now).

Council Member Hughes discussed the need to be flexible with this, as the City would lose money if the hotel were to close its doors. He would like to get Staff's thoughts on Council Member Schwartzman's idea of cutting the penalty in half.

Mayor Patterson summarized that there could be a motion adding the 'whereas' with the exception of the 7 year policy, add to the amended agreement to add the EFT, and direct Staff to enforce the original terms of the agreement (which would address the surety bond).

Council Member Strawbridge discussed the benefits of keeping the hotel open in Benicia.

Council Member Schwartzman and Mr. Suraj discussed the EFT (Mr. Suraj indicated it would not be a problem), the surety bond (not a problem) and splitting the penalty and paying that amount (50%) now (might be a bit of a challenge during these times). Mr. Suraj inquired about adding the penalty amount into the loan amount and amortizing it over the life of the loan.

Ms. Wellman suggested Council direct Staff to work with applicant to pay the half of penalty fees within a certain amount of time. That way they could work with the applicant to find a way that would suit his business. Council could put a cap on it and put it in the agreement.

Staff discussed the benefits of amortizing the penalties (applicant would be paying interest on the amount).

Council Member Hughes was inclined to go with \$6,500 and have it paid within one year of today.

Mayor Patterson summarized that Council had a suggestion of cutting the penalties in half or amortizing the amount over the term of the loan.

Council Member Hughes would like to see the \$6,500 within one year.

Council Member Schwartzman made a motion to approve the amendment, adding EFT, carrying the surety bond, and cutting penalty in half, allowing the opportunity for that to be paid of within one year (added to the agreement), and changing the whereas (addressing that the 7 years was outside of the regular policy). Council Member Hughes seconded the motion. Council Members Schwartzman and Hughes voted in favor, and Council Members Campbell, Strawbridge, and Patterson voted against.

Council Member Hughes clarified that the only issue at this time was the

penalty. Staff and Mr. Suraj have agreed on everything else.

Vice Mayor Campbell discussed the effects the hotel's closure would have one year from now as opposed to two years from now. The City would benefit from extending the time to pay the penalty over time.

Mayor Patterson clarified that there was Council consensus on everything except the issue of the penalty.

Council Member Strawbridge suggested revisiting the issue of the \$6,500 and have it paid out over two years.

Mayor Patterson clarified that the new motion would be the same as the initial motion, with the exception of the penalty payment, which would be paid over two years.

On motion of Council Member Strawbridge, seconded by Council Member Schwartzman, Council approved Resolution 12-36, as amended (amended the amendment to the agreement, adding EFT, carrying the surety bond, cutting penalty in half (\$6,500), allowing the opportunity for the penalty to be paid within two years, and changing the whereas), on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Hughes

Noes: Campbell

E. ADOPTION OF THE BUSINESS DEVELOPMENT ACTION PLAN

Mario Giuliani, Acting Economic Development Manager, reviewed the staff report.

Council Member Hughes and Staff discussed the funding requirements for some of the strategies.

Council Member Strawbridge commended Staff for their efforts. She discussed the proposed plan, and her hope that the City's website would be improved.

Council Member Schwartzman commended Staff for their efforts.

Mayor Patterson discussed the zoning for the Industrial Park.

Council Member Schwartzman urged Staff to get the Chamber of Commerce involved with this.

Public Comment:

1. Constance Beutel - Dr. Beutel stated the CSC looked forward to working with staff on this.
2. Duane Oliveria - Mr. Oliveria made some suggested amendments and

clarifications to the plan.

3. Ron Myska - Mr. Myska spoke in support of the plan.
4. Marilyn Bardet - Ms. Bardet spoke in support of the plan.

Council Member Hughes requested that the motion included the suggested change that was made on VIII.E.3, after the Community Sustainability Commission was done, it would be sent back to the Economic Development Board, prior to it coming back to Council.

On motion of Council Member Strawbridge, seconded by Council Member Schwartzman, Council adopted the Business Development Action Plan, as amended, on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes

Noes: (None)

F. Council Member Request to Agendize

This is a request to discuss Citizen's requests for a comprehensive review of UN Agenda 21 and ICLEI -Local Governments for Sustainability.

This item was continued to the first Council meeting in April 2012.

G. Council Member Request to Agendize

This council action request is to give direction to staff to develop city policies for life cycle costing analysis for infrastructure and public works projects and at a future time application to other project analysis. Therefore, this item should be agendized in time to provide these policies for council considerations in Phase II of the budget review and future budget process.

This item was continued to the first Council meeting in April 2012.

IX. ADJOURNMENT:

Mayor Patterson adjourned the meeting at 11:14 p.m.

Lisa Wolfe, City Clerk