

MINUTES OF THE
SPECIAL MEETING – CITY COUNCIL
MARCH 18, 2008

The special meeting of the City Council of the City of Benicia was called to order by Vice Mayor Campbell at 6:18 p.m. on Tuesday, March 18, 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, and Schwartzman

Absent: Mayor Patterson (arrived after Closed Session began)

PLEDGE OF ALLEGIANCE:

Vice Mayor Campbell 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:

Vice Mayor Campbell read the announcement of Closed Session

CLOSED SESSION:

A. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

(Subdivision (a) of Government Code Section 54956.9)

Name of case: City of Benicia v. Liebert Cassidy

B. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Initiation of litigation pursuant to subdivision (c) of Section 54956.9

Number of potential cases: 1

ADJOURNMENT:

Mayor Patterson adjourned the meeting at 6:19 p.m.

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
MARCH 18, 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 18, 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:

Council Member Hughes 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:

Heather McLaughlin, City Attorney, reported the following actions in Closed Session:

Item A – Council gave direction to staff.

Item B – Council authorized litigation against Overaa Construction.

Openings on Boards and Commissions:

- Sky Valley Open Space Committee:
One unexpired term to September 30, 2010
- Human Services and Arts Board:
Two unexpired terms, one to June 30, 2008, and one to June 30, 2009
- Solano Transportation Authority Pedestrian Advisory Committee:
Immediate opening – three-year term
- Tri-City and County Cooperative Planning Group Citizen Advisory Committee:
Immediate opening - term to be determined

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:

None

PRESENTATIONS:

None

PROCLAMATIONS:

- Recognizing Spring 2008 as the Benicia Historical Museum Membership Season.

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:

Council received written communications from Miller Starr Regalia and a concerned citizen (hard copies on file).

PUBLIC COMMENT:

1. Bill Royal – Mr. Royal discussed concerns regarding corruption, incompetence, concerns regarding past actions of the City regarding his project, bribes, concerns regarding the City Manager’s actions, an illegal and unconstitutional search of his property, the lawsuit he was involved in with the City, and his \$10,000.
2. Carl Lunsted – Mr. Lunsted discussed concerns regarding non-historic homes in the Historic District. He will speak during the agenda item.
3. David Vida – Mr. Vida discussed concerns regarding his water bill for property he owns on East H Street and the arbitrary increase to his bill for the 4-plex building.

Council and Staff discussed the City’s upcoming sewer rate analysis, low-income rates, the way the City’s code is set up, fees charged on the number of dwelling units as opposed to the number of water meters, the City’s delay in identifying the incorrect billing process for the property, base fees, usage charges, AB 1600 requirements, consumption charges, standby charges, senior housing discounts, and section 8 housing discounts.

Ms. McLaughlin advised Council that it could not have an extended conversation on this issue, as it was not agendized. Council confirmed this would be brought back for future Council discussion.

Mr. Vida discussed concerns regarding relief for his situation. He could not wait to resolve this until later this year.

- Staff will come back for some remedy to Mr. Vida's situation at the next Council meeting. Staff will continue its conversation with Mr. Vida in the meantime.
4. Susan Street – Ms. Street discussed a public forum that would be put on by the League of Women Voters on the effects of the State of California's budget deficit at the Camelia Tea Room on 3/19.
 5. Council Member Schwartzman – Council Member Schwartzman discussed the subcommittee that was formed to address the appointment process. He was looking forward to the first meeting of the subcommittee.
 6. Mayor Patterson – Mayor Patterson discussed the Ahwahnee Greenhouse Gas Emission Reduction Principles that were discussed at the recent Local Government Commission Annual Conference. The public could view the agenda and some of the PowerPoint presentations made by logging onto www.lgc.org.

CONSENT CALENDAR:

Council pulled items VII-A – minutes of February 19, 2008.

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

Council approved the February 26, 2008, and March 4, 2008 City Council minutes.

Council approved the denial of the claim against the City by California State Automobile Association (CSAA) and referral to insurance carrier.

RESOLUTION 08-18 - A REQUESTING FROM THE CALIFORNIA DEPARTMENT OF FINANCE AN ALLOCATION OF PROPOSITION 1B BOND FUNDING FOR THE STATE PARK ROAD BIKE/ PEDESTRIAN BRIDGE AND TRAIL PROJECT AND AUTHORIZING THE DIRECTOR OF PUBLIC WORKS TO SUBMIT THE APPLICATION ON BEHALF OF THE CITY

RESOLUTION 08-19 - A RESOLUTION APPROVING A CONSULTANT AGREEMENT WITH PAKPOUR CONSULTING GROUP FOR ENGINEERING SERVICES FOR THE STATE PARK ROAD BIKE/PEDESTRIAN BRIDGE PROJECT, APPROVING TASK ORDER NO. 1 IN THE AMOUNT OF \$496,334, APPROPRIATING \$185,100 FROM THE TRAFFIC IMPACT FEE FUND RESERVES, AND AUTHORIZING THE CITY MANAGER TO SIGN THE AGREEMENT AND TASK ORDER ON BEHALF OF THE CITY

Council approved the Investment Report for the quarter ended December 2007.

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 City Council Minutes of February 19, 2008:

Mayor Patterson requested adding 'and public health' to VII-A-7, change 'lead' to 'LEED' in two areas, change 'initial study' to 'a CEQA Initial Study' so it reads correctly, and lastly, and to add she discussed Low Impact Development.

Council discussed possibly attaching the transcript done by the City Attorney's office to the minutes, whether or not to add the comments regarding Low Impact Development to the minutes, not adding everything that was discussed into the action minutes, cherry picking individual comments to be inserted into the minutes, possibly expanding on the minutes and go back to the detailed format for these minutes, and making selective changes to the minutes.

On motion of Council Member Campbell, seconded by Mayor Patterson, Council did not adopt all of the changes requested by Mayor Patterson, on roll call by the following vote:

Ayes: Council Member Campbell and Mayor Patterson

Noes: Council Members Hughes, Ioakimedes, and Schwartzman

On motion of Council Member Schwartzman, seconded by Council Member Hughes, Council approved the February 19, 2008 Council Meeting minutes, incorporating the addition of the 'and public health' and changes from lead to LEED, on roll call by the following vote:

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

Noes: None

PUBLIC HEARINGS:

Design review for non-historic homes in the Downtown Historic Overlay District:

Heather McLaughlin, City Attorney stated that there was a potential for four out of the five Council Members to have a conflict of interest because of the location of the Downtown Historic Overlay District. The City Clerk had four playing cards that the four Council Members would draw from, Ace being the highest card, and 2 being the lowest card. The Council Members with the two highest cards would participate in the discussion. The following cards were drawn: Council Member Ioakimedes 2, Vice Mayor Campbell 3, Council Member Schwartzman 4, and Mayor Patterson Ace. Council Members Campbell and Ioakimedes recused themselves from this portion of the meeting.

Charlie Knox, Community Development Director reviewed the staff report.

Council and Staff discussed the potential possibility of lifting the restriction on new single-family construction in the Historic District, there being some sense that Staff was recommending that it would be helpful to suggest to the HPRC that Council is in favor of it being inclusive of remodeling – but that there needed to be criteria and standards dealing with both the fees and what would rise to the level of HPRC review, coming up with forms for the folks that have non-historic homes (describing what process they have to go through, the level of review, costs, etc.), fee structure, fees charged in other

communities, how long the design review process typically is (usually 2-4 months), turnaround time for building permits (2 weeks), average revenues generated for design review fees (\$10,500 last year), number of vacant lots in Historic District (4), updating the Downtown Historic Conservation Plan (update should be done towards the end of summer), getting more certainty into the process, demolition ordinance, notification process for the potential change, notification to persons purchasing a historic home, what types of remodels require HPRC review, out of 492 parcels in the Downtown Historic District - 155 historic single family homes – 20 of which are landmarks, 150 non-historic single family homes, 130 of the buildings are duplexes, multi-family, commercial, etc., and the remaining 57 parcels are assumed to be non-historic, non-single-family.

Public Hearing Opened

Public Comment:

1. Mr. Lunsted – Mr. Lunsted discussed concerns regarding charges for non-historic homes in the Historic District, cost of window replacements, painting, roofing, and the notification process.

Council and Staff discussed the replacement of windows, roofs, etc. in non-historic homes.

2. Toni Haughey – Ms. Haughey discussed installing a deck/porch on a home in the Historic District on a non-historic home – would she need to go to the HPRC?

Council and Staff discussed the process for replacing windows, permits, restrictions for non-historic homes in the Historic District, new construction/remodeling in the Historic District, and fees.

3. Donald Dean – Mr. Dean discussed fees, the Historic District, the need to nurture and cherish the Historic District, the desire to keep things in balance between the historic and non historic homes in the Historic District. He would like the City to consider design review for those homes as well. The City should keep development happening within the context of the Historic District.
4. Leeann Taagepera – Ms. Taagepera discussed her love for Benicia’s history, design review for non-historic homes in the Historic District, the Downtown Historic Conservation Plan, Secretary of Interior Standards, property values, the City’s Certified Local Government (CLG) application, the Downtown Mixed Use Master Plan, the need to make the process easy and inexpensive, require design review for all buildings inside the Historic District including new single-family residences, including duplexes in the Historic District, and the City of Vallejo’s requirements.
5. Bonnie Silveria – Ms. Silveria discussed the Downtown Historic District, what other cities’ Historic Districts look like, putting some reign on this, and the need to look at what we want to see in the future.
6. Sandra Shannonhouse – Ms. Shannonhouse discussed her five properties in the Historic District, Benicia always wanting to reinvent the wheel, the need for buildings to fit into their surroundings, a recent article in the San Francisco Chronicle, the need to expand and maintain the protections for the Historic

District, and the need to implement a moratorium on all building permits in the Historic District until this issue is resolved.

Council and Staff discussed the Downtown Mixed Use Master Plan, loopholes, and mixed use on the side streets off of First Street.

7. Donnell Rubay – Ms. Rubay discussed the zoning changes to the side streets off of First Streets, Council having staff come back with a new proposal on fees, what should go through design review, imposing the rule on the current empty lots, have staff review for non-historic buildings that are going to have a foot print change, mirroring that in the Arsenal District, noticing, and property rights.
8. Bob Berman – Mr. Berman discussed the integrity of the Historic District, tourism, the need to establish a threshold for the size/height, tearing down of non-historic homes to rebuild bigger homes in the Historic District, and his support of design review for new non-historic homes.
9. Jon Van Landschoot – Mr. Van Landschoot discussed losing his rights as a property owner of a non-historic home in the Historic District, taking care of injustices, being a second class citizen, lowering the prices, the need to do this now.
10. Jeanine Seeds – Ms. Seeds discussed how hard it is to find ‘historic Benicia’ as described by the freeway sign, strip malls, fast food places, Starbucks, Council’s responsibility to the citizens.

Public Hearing Closed

Council and Staff discussed the boundaries of the Historic District, changing the rules in the middle of the game, requiring design review for new construction in the Historic District, not willing to go the extra step for requiring design review for other modifications, developing guidelines for non-historic homes in the Historic District including options and fee structures, notification process – reaching out to all 300+ homeowners in the Historic District, engaging them in the process, current design guidelines for new construction in the Historic District, the design guidelines in the Downtown Historic Conservation Plan, maintaining the integrity of the Historic District, the need for maintaining a balance, CLG compliance, the amount of time it takes to process and application, fees being onerous, vacant lots, demolition permit, having the HPRC look at the issue, the need for design guidelines and a plan, and the need for sufficient notice to the property owners in the Historic District.

On motion of Council Member Hughes, seconded by Mayor Patterson, Council gave direction to Staff to bring this issue back to the HPRC to develop guidelines and recommendations regarding the non-historic homes within the Historic District, including fee structure, design guidelines, so forth, and bring the recommendations with options back to Council in a reasonable timeframe (to the HPRC at the end of April and to Council at the second meeting in May), including direction that the HPRC provide written notice to all property owners in the Historic District, on roll call by the following vote:

Ayes: Council Members Hughes, Schwartzman, and Mayor Patterson

Noes: None

Abstain: Council Members Campbell and Ioakimedes

Introduction and first reading of an ordinance amending Subsection B of Section 17.70.300 (Animals) of Chapter 17.70 (Site Regulation) of Title 17 (Zoning) of the Benicia Municipal Code:

Charlie Knox, Community Development Director, reviewed the staff report.

Public Hearing Opened

Public Comment:

1. Christina Topp - Ms. Topp spoke in support of the proposed ordinance. She looked forward to having the zoning in compliance with the animal keepers permit and the ordinance.

Public Hearing Closed

ORDINANCE 08- - AN ORDINANCE AMENDING SUBSECTION B OF SECTION 17.70.300 (ANIMALS) OF CHAPTER 17.70 (SITE REGULATION) OF TITLE 17 (ZONING) OF THE BENICIA MUNICIPAL CODE TO BE CONSISTENT WITH TITLE 6 (ANIMALS)

On motion of Council Member Schwartzman, seconded by Ioakimedes, the above Introduction and First Reading of an Ordinance was approved, on roll call by the following vote:

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

Noes: None

Approval of the updated Traffic Impact Fee Program:

Dan Schiada, Public Works Director, reviewed the staff report.

Council and Staff discussed current rates, fees, rates in other cities, regional standard fees, cost per base trip, net effect of the fee adjustment, who the new fees apply to, whether the gap (from Seeno being subject to 2002 rates) could be made up in a development agreement, traffic calming, and the funding source for the \$25 million (infill development).

Public Hearing Opened

Public Comment:

None

Public Hearing closed

RESOLUTION 08-20 - A RESOLUTION APPROVING THE UPDATE TO THE TRAFFIC IMPACT FEE PROGRAM AND AUTHORIZING ASSOCIATED FEE ADJUSTMENTS

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

ACTION ITEMS:

Confirmation of the accuracy of the resolution certifying the Benicia Business Park EIR: Heather McLaughlin, City Attorney, reviewed the staff report.

Public Comment:

1. Jim Kushera – Mr. Kushera discussed being surprised that this item was brought back, the need for the City to protect itself with this project and leasing industrial space.
2. Dana Dean – Ms. Dean gave Council two letters (hard copies on file). She discussed the Final EIR, her idea of what took place at the 2/19 Council meeting, AB 32 standards, missing the forest for the trees, whether what was included is enforceable, the need to look at the new request to fill in some gaps when the document comes back - with a supplemental EIR or something, and the need for the City to be proactive with what this project should look like – a visionary project.
3. Susan Street – Ms. Street discussed what the City is facing with the project (strength, money, power that Seeno has), the need to strengthen our position, protect the town, consider adding as much as we need to add and put more in.
4. Jon Van Landschoot – Mr. Van Landschoot compared the situation to a poker game, the future of our town, and Seeno having money and lawyers, but no principles.

Council and Staff discussed the proposed changes suggested by Ms. Dean (hard copy on file), that the negotiations on 2/19 were done in good faith, the negotiations at the end of the discussion on 2/19 were rapid, Mayor Patterson's understanding that there was a non-verbal commitment to include Low Impact Development, her understanding that she heard a desire to have sustainable development, the need for better criteria, LEED, LEED-ND, being stuck, the need to bring both sides together on this issue, there being compromise on both sides at the 2/19 discussion, reviewing the transcript of the 2/19 discussion, Council Member Schwartzman's comment about not being sure at all about Low Impact Development, reaffirmation of Council Member Schwartzman's motion, the need to play straight, the proposed project being unacceptable, not being able to record what was never said, the need for people to say what they mean when they say it, and the need for a visionary project.

On motion of Council Member Schwartzman, seconded by Council Member Hughes, Council confirmed the accuracy of the resolution language, as adopted on February 19, 2008, as listed on IX-A-12 (without ND), on roll call by the following vote:

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

Noes: Mayor Patterson

INFORMATIONAL ITEMS:

Reports from City Manager:

Council Member Committee Reports:

1. Mayor's Committee Meeting - (Mayor Patterson) Next Meeting Date: April 16, 2008.
2. Association of Bay Area Governments (ABAG) - (Mayor Patterson & Vice Mayor Campbell) - Next Meeting Date: April 24, 2008 – Spring General Assembly.
3. Audit & Finance Committee. - (Vice Mayor Campbell & Council Member Schwartzman) - Next Meeting Date: April 4, 2008.
4. League of California Cities - (Mayor Patterson & Council Member Schwartzman) - Next Meeting Date: April 16-17, 2008 – Legislative Action Days.
5. School Liaison Committee - (Council Members Ioakimedes & Hughes) - Next Meeting Date: June 12, 2008.
6. Sky Valley Open Space Committee - (Vice Mayor Campbell & Council Member Ioakimedes) - Next Meeting Date: April 2, 2008.
7. Solano EDC Board of Directors - (Mayor Patterson & Council Member Ioakimedes) - Next Meeting Date: March 27, 2008
8. Solano Transportation Authority (STA) - (Mayor Patterson & Council Member Schwartzman) - Next Meeting Date: April 9, 2008
9. Solano Water Authority/Solano County Water Agency - (Mayor Patterson & Vice Mayor Campbell) - Next Meeting Date: April 10, 2008
10. Traffic, Pedestrian and Bicycle Safety Committee - (Vice Mayor Campbell & Council Member Hughes) - Next Meeting Date: April 17, 2008
11. Tri-City and County Cooperative Planning Group - (Vice Mayor Campbell & Council Member Hughes) - Next Meeting Date: March 24, 2008
12. Valero Community Advisory Panel (CAP) - (Council Member Hughes) - Next Meeting Date: April 24, 2008
13. Youth Action Task Force - (Council Members Ioakimedes & Schwartzman) - Next Meeting Date: March 26, 2008
14. ABAG/CAL FED Task Force/Bay Area Water Forum - (Mayor Patterson) - Next Meeting Date: March 24, 2008

COMMENTS FROM COUNCIL MEMBERS:

Request to agendaize discussion of a Benicia Industrial Park Needs Assessment:

Council Member Ioakimedes reviewed the report.

Council discussed what was envisioned in terms of the needs assessment, scope, how big of a project it would be, whether the Benicia Industrial Park Association (BIPA) would participate in the cost of the assessment, rough preliminary cost of approximately \$40,000 for the assessment, the need to put the Business License Tax properly allocated, putting the money where the City promised it would go, street repairs, sidewalks, basic infrastructure improvements, identifying a timeframe as to when this should be brought back for discussion.

Ms. McLaughlin summarized the motion that Council was making: ‘To agendaize the consideration of a Benicia Industrial Park Industrial Needs Assessment, including a report on the use of the Business License Tax increase, which was supposed to go towards street repairs, lights, and sidewalks, and it should be moved up on the priority list so that it is not on the bottom, but closer to the top.’

Public Comment:

1. Dana Dean – Ms. Dean asked that the City consider her request to be an interested party in this item, and to be given formal written notice of any action related to it.

On motion of Council Member Ioakimedes, seconded by Council Member Hughes, Council agreed to bring this back for discussion at a future Council meeting, on roll call by the following vote:

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

Noes: None

Council Member Schwartzman discussed his concern regarding the byline in the Benicia Herald regarding his and the Mayor’s ‘battle of wits.’ He would appreciate the paper using different language in the future.

ADJOURNMENT:

Mayor Patterson adjourned the meeting at 10:34 p.m.

Lisa Wolfe, City Clerk