

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
April 02, 2013

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 LABOR NEGOTIATOR
(Government Code Section 54957.6 (a))**

Agency negotiators: City Manager, Administrative Services Director

Employee organizations: City Manager, City Attorney, Senior Managers, Benicia Middle Management Group, Local 1, Benicia Public Service Employees' Association (BPSEA), Benicia Police Officers Association (BPOA), Benicia Firefighters Association (BFA), Benicia Dispatchers Association (BDA), Police Management, Unrepresented.

B. CONFERENCE WITH REAL PROPERTY NEGOTIATOR

**Property: 4850 Park Road, 3300 Park Road & 3190 Bayshore Road
Negotiation Parties: City Attorney, City Manager & Economic Development Manager
Under Negotiation: Instruction to negotiator on both payment and lease terms**

III. CONVENE OPEN SESSION:

Mayor Patterson called the Open Session to order at 7:07 p.m.

A. ROLL CALL

All Council Members were present. Vice Mayor Campbell arrived at 7:08 p.m.

B. PLEDGE OF ALLEGIANCE

John Johnsen 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.

Heather McLaughlin, City Attorney, reported that Council received information from Staff and provided direction to Staff on both Closed Session items.

2. Openings on Boards and Commissions:

Arts and Culture Commission
1 unexpired term
2 full terms
Open until filled

3. Mayor's Office Hours:

4. Benicia Arsenal Update: Verbal update

Mayor Patterson reviewed the staff report.

B. PROCLAMATIONS

1. In Recognition of National Library Week - April 14 – April 20, 2013

2. In Recognition of Child Abuse Prevention Awareness Month - April 2013

C. APPOINTMENTS

1. Appointment of Pete Turner to the Solano Transportation Authority (STA) Pedestrian Advisory Committee for a three year term

RESOLUTION 13-22 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF PETE TURNER TO THE SOLANO TRANSPORTATION AUTHORITY (STA) PEDESTRIAN ADVISORY COMMITTEE FOR A THREE YEAR TERM

On motion of Mayor Patterson Council adopted Resolution 13-22, on roll call by the following vote:

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

D. PRESENTATIONS

- 1. Solano Fit Magazine and the Solano County Library Foundation
Jessica Adele, Publisher, Solano Fit Magazine
Dilenna Harris, Executive Director, Solano County Library
Foundation
Jim Dunbar, Board Chairman, Solano County Library Foundation
Promoting SoFitCity and presenting a plaque thanking Council for
Benicia's participation in the 2012 SoFitCity event**

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

VI. OPPORTUNITY FOR PUBLIC COMMENT:

A. WRITTEN COMMENT

B. PUBLIC COMMENT

1. John Johnsen - Mr. Johnsen was present for the Benicia Chamber of Commerce representing businesses in Benicia.
2. Jasmine Powell - Ms. Powell spoke about the Benicia Industrial Park. She proposed that the revenue from the proposed electronic billboards be used to better the roads and services to the Benicia Industrial Park. She would like the City to set up a fund within the City to receive the funds.
3. Mayor Patterson read a proclamation for 'National Service Recognition Day.'

VII. CONSENT CALENDAR:

Council pulled items VII.B and VII.D for discussion.

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

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

- A. APPROVAL OF THE MINUTES OF THE MARCH 12, 2013 AND MARCH 19, 2013 CITY COUNCIL MEETINGS. (City Clerk)**
- B. RESPONSE TO 2012-2013 GRAND JURY REPORT "BENICIA CITY CEMETERY"**

Council Member Strawbridge and Staff discussed the issue of the care for non-endowment care signage.

Public Comment:

None

On motion of Council Member Strawbridge, seconded by Council Member Schwartzman, Council approved the Response to 2012-2013 Grand Jury Report "Benicia City Cemetery", on roll call by the following vote:

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

- C. DENIAL OF THE CLAIM AGAINST THE CITY BY GINGER RENEE KELLEY AND REFERRAL TO INSURANCE CARRIER**
- D. DENIAL OF THE CLAIM AGAINST THE CITY BY SUSAN MIRKOVICH AND REFERRAL TO INSURANCE CARRIER**

Council Member Hughes discussed a conversation he had with the claimant. He and Staff discussed who was responsible for the drainage ditch behind the property in question. Staff checked the area (open space owned by the City of Benicia), and there was not a drainage ditch behind the house. The problem was most likely caused by a heavy rain storm that caused an excessive amount of mud.

Mayor Patterson and Staff discussed the claim. They discussed the issue of setting precedent. Mayor Patterson stated that the last torrential downpour may be the future rather than a rare event.

Public Comment:

None

On motion of Council Member Schwartzman, seconded by Council Member Strawbridge, Council approved the denial of the above claim, and referral to

insurance carrier, on roll call by the following vote:

Ayes: Strawbridge, Schwartzman, Campbell

Noes: Patterson, Hughes

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

VIII. BUSINESS ITEMS:

- A. INTRODUCTION AND FIRST READING OF AN ORDINANCE CHANGING THE ELECTION DATE FOR GENERAL MUNICIPAL ELECTIONS TO EVEN-NUMBERED YEARS AND EXTENDING THE TERMS OF CURRENT COUNCIL MEMBERS BY UP TO 12 MONTHS**

ORDINANCE 13- - AN ORDINANCE AMENDING SECTION 1.16.010 (GENERAL MUNICIPAL ELECTIONS) OF TITLE 1 (GENERAL PROVISIONS) OF THE BENICIA MUNICIPAL CODE TO MOVE THE DATE OF THE CITY'S GENERAL MUNICIPAL ELECTION FROM THE FIRST TUESDAY AFTER THE FIRST MONDAY OF NOVEMBER IN ODD-NUMBERED YEARS TO THE FIRST TUESDAY AFTER THE FIRST MONDAY OF NOVEMBER IN EVEN-NUMBERED YEARS AND INCREASE THE CURRENT TERMS OF ELECTED OFFICIALS BY AN AMOUNT NOT TO EXCEED ONE YEAR

Heather McLaughlin, City Attorney, reviewed the staff report.

Council Member Schwartzman and Staff discussed the handout provided by the County (copy on file).

Vice Mayor Campbell discussed concerns regarding the projected costs, as they were not definite numbers. He expressed concern regarding extending the terms of elected officials.

Council Member Hughes discussed support for moving to even-year elections. He was concerned regarding extending the terms. He would like to explore different ways to reduce terms.

Vice Mayor Campbell discussed different scenarios for reducing terms.

Council Member Schwartzman discussed the importance of continuity on a city council.

Council Member Strawbridge discussed the positive reactions she has heard from citizens regarding moving to even-year elections. She was concerned about not moving forward and being left as one of a few cities/districts on a ballot (high cost).

Vice Mayor Campbell discussed the possibility of putting an advisory vote on the

issue in 2013.

Public Comment:

1. Dennis Lowry - Mr. Lowry spoke in support of the proposed ordinance; however, he was against extending the terms. He did not think there was a problem with having all elected official's terms up at the same time.
2. Jim Stevenson - Mr. Stevenson spoke in support of the proposed ordinance. He discussed the issue of increased voter turnout.
3. Bonnie Silveria - Ms. Silveria spoke in support of the proposed ordinance. She was okay with extending the terms.

Vice Mayor Campbell discussed the issue of conflict of interest with increasing terms (self-serving). He supported eventually moving to even-year terms; however he supported putting this item on as an advisory vote on the 2013 ballot.

Mayor Patterson and Staff discussed the discussion at the League of California Cities regarding staggering terms and continuity on city councils.

Mayor Patterson discussed the fact that there has not been very much public concern regarding extending the terms. She discussed prior statements made regarding the extension of terms being 'self-serving.'

Vice Mayor Campbell made a motion to have the 2013 election, and add an advisory vote on moving to even-year elections, in which case the next election would be for a 5-year term for two city council seats and the other positions would serve for an additional year.

Council Member Hughes and Vice Mayor Campbell discussed the proposed motion. Council Member Hughes seconded the motion. He proposed decreasing the remaining elected official's terms to three years.

The motion did not pass, with a 1/4 vote.

Mayor Patterson asked if there was a motion to introduce and approve the proposed ordinance, with an amendment to section 1 (purpose and intent): 'The purpose and intent of this ordinance is to increase voter turnout, and to reschedule the City's General Municipal Elections.'

Council Member Schwartzman made a motion to adopt the ordinance, with the above suggested amendment. Council Member Strawbridge seconded the motion. The motion passed with a 3/2 vote.

On motion of Vice Mayor Campbell, seconded by Council Member Hughes, Council did not approve the motion to have the 2013 election, and add an advisory vote on moving to even-year elections, in which case the next election would be for a 5-year term for two city council seats, and the other positions would serve for an additional year, on roll call by the following vote:

Ayes: Campbell

Noes: Patterson, Strawbridge, Schwartzman, Hughes

On motion of Council Member Schwartzman, seconded by Council Member Strawbridge, Council approved the Introduction and First Reading of the above Ordinance, as amended, on roll call by the following vote:

Ayes: Strawbridge, Schwartzman, Patterson

Noes: Campbell, Hughes

B. RESOLUTION OF INTENTION AND INTRODUCTION OF AN ORDINANCE AMENDING THE CONTRACT BETWEEN THE CITY OF BENICIA AND PUBLIC EMPLOYEES' RETIREMENT SYSTEM FOR LOCAL SAFETY EMPLOYEES TO PROVIDE SECTION 20516 (5.41% EMPLOYEES SHARING COST OF ADDITIONAL BENEFITS) APPLICABLE TO SECTION 21362.2 (3% @ 50 FULL FORMULA) AND SECTION 21363.1 (3% AT 55 FULL FORMULA) FOR LOCAL FIRE MEMBERS IN BENICIA FIREFIGHTER'S ASSOCIATION (BFA)

RESOLUTION 13-23 - A RESOLUTION APPROVING AN AMENDMENT TO THE CONTRACT BETWEEN THE BOARD OF ADMINISTRATION CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND THE CITY COUNCIL OF THE CITY OF BENICIA

ORDINANCE 13- - AN ORDINANCE AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY COUNCIL AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

Anne Cardwell, Administrative Services Director, reviewed the staff report.

Public Comment:

None

On motion of Council Member Schwartzman, seconded by Council Member Strawbridge, Council adopted Resolution 13-23, on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes

Noes: (None)

On motion of Council Member Schwartzman, 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)

C. APPEAL OF PLANNING COMMISSION USE PERMIT APPROVAL TO MODIFY BILLBOARD AT 4850 PARK ROAD

RESOLUTION 13-24 - A RESOLUTION DENYING THE APPEALS AND UPHOLDING THE PLANNING COMMISSION DECISION TO APPROVE A USE PERMIT TO MODIFY THE EXISTING BILLBOARD AT 4850 PARK ROAD

Mayor Patterson apologized to Mr. Andres for not recognizing his right to rebuttal at the last public hearing regarding this item.

Mayor Patterson and Staff reviewed how the public hearing would be handled.

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

Mayor Patterson and Staff discussed the City's current sign ordinance, the development agreement (expired), and the use permit.

Public Hearing Opened

Appellant - Craig Andres:

John Andres, Insight Glass, discussed concerns regarding the sign permit, the expired development agreement, and the size of the proposed electronic billboard. He discussed the City's current sign ordinance. He was concerned that the vast difference in sizes of the current and proposed sign exceeded the term 'modification.' He was concerned the proposed sign would diminish the value of their property.

Council Member Hughes and Staff discussed whether or not the flashing of the proposed sign would be in view of the property in question.

Craig Andres, Insight Glass, discussed the size of the land the proposed sign was on, the size of his building, the sales tax his company has contributed to the City, concerns regarding the illegality of the proposed sign, and the City's current noticing procedures. He did not believe the use permit is legal. Other tenants in the area do not want the sign either.

Applicant - Colin Smith, CBS Outdoor:

Mr. Smith discussed five other similar signs CBS Outdoor currently has in the

Bay Area. He discussed the lighting summary and requirements for LED signs. He reviewed the size and appearance of the sign.

Council Member Hughes and Mr. Smith discussed smaller electronic billboards that CBS Outdoor owns in other parts of the country. The proposed sign is their standard sized sign. They discussed the size of the proposed wedge of the sign.

Mayor Patterson disclosed exparte communications.

Council Member Schwartzman disclosed exparte communications. He discussed concerns regarding Mayor Patterson's E-alerts regarding this issue on her web page.

Vice Mayor Campbell disclosed exparte communications.

Council Member Strawbridge clarified that she did not have any exparte communications on the issue.

Council Member Hughes disclosed exparte communications.

Public Comment:

1. Jim Stevenson - Mr. Stevenson discussed concerns regarding distraction and attention issues the signs could cause.
2. Jack Ruszel, Local Business Owner - Mr. Ruszel spoke in opposition to the proposed electronic billboard.
3. Leah Shellhorn, local business owner - Ms. Shellhorn spoke in support of the proposed electronic billboard. A similar sign in Martinez has tripled the income/business for Iron horse Home Furnishings.

Rebuttal:

Appellant - Craig Andres:

Mr. John Andres asked for clarification on the issue of the legality of the sign under the City's sign ordinance. He discussed concern regarding the size of the sign, as it is more than double the size of the current sign.

Vice Mayor Campbell and Mr. Andres discussed the amount of sales/property tax the business generates. Mr. Andres discussed possibility legal action against the City regarding the proposed sign.

Applicant - Colin Smith, CBS Outdoor:

Mr. Smith stated that he did not have a rebuttal.

Public Hearing Closed

Mr. Knox discussed the issue of using an alternative site for the sign.

Council Member Hughes and Staff discussed whether the new sign could be a violation of the City's ordinance. The ordinance allows signs to be relocated, remodeled, or enhanced.

Council Member Schwartzman and Staff discussed staff's confidence from a legal and planning perspective regarding proceeding with the proposed sign. He asked Mr. Andres if he would be willing to accept a smaller sign. Mr. Andres said they would consider a sign that was not taller, wider, or larger than the sign that is currently installed.

Council Member Schwartzman and Staff discussed the size of the proposed sign. Council Member Schwartzman asked Mr. Smith if CBS Outdoor would consider a smaller sign. Mr. Smith stated CBS Outdoor was comfortable with the size of the proposed sign.

Vice Mayor Campbell and Staff discussed the possibility of an injunction.

Mayor Patterson and Staff discussed the issue of possible legal action.

Vice Mayor Campbell and Staff discussed the City's limited lease area. If the City were to try and find another location for the sign, it would most likely involve negotiations with Caltrans.

Council Member Hughes and Staff discussed the possibility of relocating the sign.

Council Member Strawbridge and Staff discussed the past use and history of the current Nationwide Auction sign. CBS Outdoor was responding to an RFP that the City put out.

Mayor Patterson discussed concerns with the process regarding the sign. She would have liked to see more community involvement in the process. She was disappointed with the CEQA review process for this project.

Vice Mayor Campbell and Mr. Smith discussed CBS Outdoor's desire to have a digital sign on I-680. CBS Outdoor has put a lot of time and effort into this project.

Vice Mayor Campbell discussed concern regarding the cost of possible legal fees.

Vice Mayor Schwartzman and Staff clarified that if the project moved forward and a legal injunction or actions were brought forward, CBS Outdoor would defend the City.

Council Member Hughes discussed Council's responsibility to do what is best for the overall community. He discussed the safety aspect of the proposed sign. He would support the proposed billboard with some hesitancy.

Mayor Patterson discussed concerns with the CEQA aspect, the use permit

issues, expired development agreement, and the safety issues with the proposed billboard. She discussed concerns regarding the fact that the study that approved this type of sign was paid for by the industry. She did not believe the billboard would add to the City's economic well-being.

Council Member Schwartzman discussed the CEQA issue. He was comfortable the sign was legal. He discussed the issues of distraction, and economics. He would like to see some of the money the City makes from the sign dedicated back into the Benicia Industrial Park.

Vice Mayor Campbell discussed the possible income from the billboard and possible loss of sales tax and property tax revenues. If Insight Glass were to leave, it would not make sense to proceed, due to the legal and financial concerns.

On motion of Council Member Hughes, seconded by Council Member Schwartzman, Council adopted Resolution 13-24, on roll call by the following vote:

Ayes: Strawbridge, Schwartzman, Hughes

Noes: Campbell, Patterson

IX. ADJOURNMENT:

Mayor Patterson adjourned the meeting at 10:24 p.m.

Lisa Wolfe, City Clerk