

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
April 19, 2011

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 7:21 p.m.

II. CLOSED SESSION:

III. CONVENE OPEN SESSION:

A. ROLL CALL

Council Member Campbell arrived at 7:22 p.m.

B. PLEDGE OF ALLEGIANCE

Melissa Morton led the Pledge of Allegiance.

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF PUBLIC

IV. ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:

A. ANNOUNCEMENTS

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

Ms. McLaughlin reported that Council gave direction to Staff on item IV.A, and received information on item IV.B.

2. Openings on Boards and Commissions:

Soltrans Public Advisory Committee: Three Full Terms
Open until filled

Sky Valley Open Space Committee: One full term to January 31, 2015
Open until filled

Civil Service Commission: One full term to January 31, 2015
Open until filled

Building Board of Appeals: Three full terms to January 31, 2015
Open until filled

Solano Transportation Authority Pedestrian Advisory Committee: One

full term to January 31, 2014
Open until filled

3. Mayor's Office Hours

4. Benicia Arsenal Update:

Ms. McLaughlin reported that the subcommittee was making process, and would have something to report out on May 3, 2011.

B. APPOINTMENTS

C. PRESENTATIONS

1. Open Government Annual Report

Heather McLaughlin, City Attorney, briefly reviewed the staff report.

Mayor Patterson requested that the commission work on scheduling a forum for the candidates the Saturday prior (or the week prior) to the election.

Council Member Ioakimedes requested staff contact the other entities that would be hosting forums to try and coordinate efforts, to aid in reducing cost.

Public Comment:

None

2. Update on Caltrans Landscaping Projects - Jeanne Gorham and Mo Pazooki, Caltrans

Mo Pazooki and Jeanne Gorham, Caltrans, reviewed a PowerPoint presentation.

Mayor Patterson and Mr. Pazooki discussed the issue of the thefts, the possibility of coming up with a cooperative maintenance arrangement, moving the East Second Street Corporation Yard closer to the Lake Herman area, and the status of the tree replanting program for the trees that were cut down along I-780.

Vice Mayor Schwartzman and Mr. Pazooki discussed the wire theft issue, and the possibility of installing security cameras, and support for moving the Corp. Yard.

Public Comment:

Citizen - The citizen discussed the need for a walking/biking path from the Vista Point area to the Industrial Park.

D. PROCLAMATIONS

1. **In Recognition of California Native Plant Week - April 17 - 23, 2011**
2. **In Recognition of Earth Day - April 22, 1011**
3. **In Recognition of Child Abuse Prevention Awareness Month**

V. ADOPTION OF AGENDA:

Mr. Kilger stated there would be a request for Council to reject all proposals for item IX.C. Some local businesses were not given the opportunity to bid on the project. The Mayor would be requesting that Staff be directed to reissue the RFP, take all necessary steps to maximize notification of the RFP to local businesses, and return to Council on this matter as quickly as possible.

The item would remain on the agenda in its current order.

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

Ayes: Patterson, Schwartzman, Campbell, Hughes, Ioakimedes

Noes: (None)

VI. OPPORTUNITY FOR PUBLIC COMMENT:

A. WRITTEN COMMENT

None

B. PUBLIC COMMENT

Kimble Goodman - Mr. Goodman discussed BOTTG's upcoming presentation of 'The Nerd'.

Constance Beutel - Dr. Beutel discussed the new volunteer brochure that is available.

Vice Mayor Schwartzman - Vice Mayor Schwartzman asked Staff to publicize the Chevron Solar Energy Conservation Project financial news (favorable interest rate of 5.8%), which increased the annual net savings to \$85,000 per year for the project.

Kathy Kerridge - Ms. Kerridge inquired about the purchase of the bonds for the Chevron Solar Energy Conservation Project. The bonds were available through Edward D. Jones & Co.

Council Member Campbell - Council Member Campbell discussed having a joint meeting between Parks, Recreation and Cemetery Commission and the EDB regarding renting out space in the Commanding Officer's Quarters. Staff confirmed they would provide Council with an update on the issue in the City

Manager's bi-weekly report.

VII. CONSENT CALENDAR:

Council pulled item VII.D for discussion.

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

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

A. APPROVAL OF MINUTES OF THE SPECIAL MEETING OF MARCH 22, 2011 THE SPECIAL AND REGULAR MEETING OF APRIL 5, 2011 AND THE SPECIAL MEETING OF APRIL 6, 2011

On motion of Vice Mayor Schwartzman, seconded by Council Member Hughes, Council approved the minutes, as presented, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

B. DENIAL OF THE CLAIM AGAINST THE CITY BY CSAA/LARRY YOST AND REFERRAL TO INSURANCE CARRIER

On motion of Vice Mayor Schwartzman, seconded by Council Member Hughes, Council approved the denial of claim, and referral to insurance carrier, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

C. DENIAL OF THE CLAIM AGAINST THE CITY BY QUAN LY AND REFERRAL TO INSURANCE CARRIER

On motion of Vice Mayor Schwartzman, seconded by Council Member Hughes, Council approved the denial of the claim, and referral to insurance carrier, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

D. APPROVAL OF A WIRELESS COMMUNICATION LEASE AGREEMENT AT 257 ESSEX WAY WITH NEW CINGULAR WIRELESS PCS, LLC

RESOLUTION 11-48 - A RESOLUTION APPROVING A LEASE AGREEMENT BETWEEN THE CITY OF BENICIA AND NEW CINGULAR WIRELESS PCS, LLC, A DELAWARE LIMITED LIABILITY COMPANY, TO INSTALL A WIRELESS COMMUNICATION FACILITY AT 257 ESSEX WAY, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

Vice Mayor Schwartzman and Staff discussed the construction timeline (set to begin 4/29), necessary governmental approvals, and the issues of rent and late

charges.

Council Member loakimedes and Staff discussed cell phone tower income (going to the General Fund).

Mayor Patterson and Staff discussed the language 'automatically renew' as stated in the contract, and the possibility of notifying Council prior to the contract automatically renewing.

Public Comment:

Dennis Lowry - Mr. Lowry asked where the funds would be deposited (General Fund).

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

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

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

VIII. PUBLIC HEARINGS:

IX. ACTION ITEMS:

A. AUTHORIZE PURCHASE OF COMMUNITY CENTER FURNITURE

RESOLUTION 11-49 - A RESOLUTION AUTHORIZING THE PURCHASE OF FURNITURE FOR THE BENICIA COMMUNITY CENTER FROM KRUEGER INTERNATIONAL IN AN AMOUNT OF \$87, 619.28 AND AUTHORIZING THE FINANCE DIRECTOR TO SIGN THE PURCHASE ORDER ON BEHALF OF THE CITY

Mike Alvarez, Parks & Community Development Director, reviewed the staff report.

Council Member Hughes and Staff discussed any unexpected costs Staff might need to spend between now and the opening of the Community Center (none expected).

Council Member Campbell thanked Staff for their efforts.

Public Comment:

None

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

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

B. AWARD OF CONSULTANT CONTRACT FOR PROFESSIONAL SERVICES FOR THE 2011 SUSTAINABILITY EDUCATIONAL WORKSHOPS

RESOLUTION 11-50 - A RESOLUTION AWARDING A CONSULTANT AGREEMENT FOR PROFESSIONAL SERVICES FOR THE 2011 SUSTAINABILITY EDUCATIONAL WORKSHOPS TO DOMINICAN UNIVERSITY OF CALIFORNIA FOR A NOT-TO-EXCEED COST OF \$24,000, APPROVING AN ADDITIONAL \$5,000 FOR COSTS RELATED TO PROVIDING THE WORKSHOPS AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONTRACT ON BEHALF OF THE CITY

Melissa Morton, Land Use & Engineering Manager, Dr. Beutel, and Kathy Kerridge, Community Sustainability Commission, reviewed the staff report.

Council Member Hughes and Staff discussed the bidding process for this item.

Council Member Ioakimedes and Staff discussed the positive aspects of partnering with universities.

Council Member Campbell and Staff discussed the cost difference between using Dominican College and Solano Community College.

Vice Mayor Schwartzman and Staff discussed the proposed costs, renting meeting space, length of courses, and how businesses and people who are not at the graduate level will be able to participate.

Council Member Hughes thanked the Community Sustainability Commission for their efforts on this project.

Public Comment:

Gene Doherty - Mr. Doherty discussed the importance of outreach and education in the community, and the need for the major businesses in the City to participate.

Marilyn Bardet - Ms. Bardet highly recommended the City consider the workshops for staff development. She suggested using part of the \$5,000 for publicity to encourage businesses to attend.

Susan Street - Ms. Street spoke in support of the proposed contract.

Kimble Goodman - Mr. Goodman spoke in support of the proposed contract.

End of Public Comment

Council Member Hughes motioned to approve the Resolution. Vice Mayor Schwartzman seconded the motion.

Council Member Campbell requested further discussion. Mayor Patterson asked Ms. McLaughlin for a point of order. Ms. McLaughlin suggested the motion and second be withdrawn if Council wanted to discuss the issue further. Council Members Hughes and Schwartzman withdrew their motions.

Council Member Campbell and Staff discussed what sort of certification City Staff would receive if they were to attend the workshops. Ms. Beutel confirmed Staff would receive a letter of completion after completing the workshops.

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

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

C. AWARD OF CONSULTANT CONTRACT FOR THE UPDATE OF THE SUSTAINABLE DEVELOPMENT WEBSITE

Mayor Patterson requested Council reject the proposals and issue new RFP that contained more comprehensive language.

Mayor Patterson disclosed exparte communications.

Vice Mayor Schwartzman disclosed exparte communications. He discussed the need to do everything possible to utilize local businesses whenever possible.

Council Member Hughes and Staff discussed the issue of the bids that were already submitted and opened, and the legal/ethical issues involved with reissuing the RFP.

Council and Staff discussed how the RFP could be changed to level the playing field for companies that have already submitted bids.

Council Member loakimedes discussed concern regarding the RFP process that was followed.

Council Member Campbell discussed concern regarding the high bids that were received.

Council Member Hughes discussed concern regarding the ability to level the playing field.

Public Comment:

Gene Doherty - Mr. Doherty discussed the process, and his optimism regarding leveling the playing field.

Marilyn Bardet - Ms. Bardet discussed the need for a high-par website for the Sustainability Commission. The current website is outdated. She discussed the application process. She stressed the need to proceed in a timely manner.

End of Public Comment

Mayor Patterson discussed the need for a better website product, leveling the playing field, and the need to proceed in a timely manner.

Vice Mayor Schwartzman discussed the issue of local purchasing/servicing policy, whether the commission acted hastily, the need to make the process fair, and support for rejecting the bids and starting over.

Council Member Hughes discussed whether it was possible to level the playing field.

Public Comment:

Constance Beutel - Dr. Beutel clarified that the Sustainability Commission did not act hastily when making the decision regarding the website.

End of Public Comment

Council Member loakimedes discussed the need to notify local vendors of RFP's.

On motion of Council Member Hughes, seconded by Council Member Campbell, Council did not adopt the proposed Resolution, on roll call by the following vote:

Ayes: Hughes

Noes: Patterson, Schwartzman, Campbell, loakimedes

On motion of Council Member Campbell, seconded by Vice Mayor Schwartzman, Council approved rejecting all bids, and directed Staff to reissue the RFP (without prejudice), for the purposes of clarifying the technical approach, and identifying possible cost savings, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, loakimedes

Noes: Hughes

D. AMENDING THE CITY COUNCIL RULES OF PROCEDURE

Heather McLaughlin, City Attorney, reviewed the staff report.

Council Member loakimedes and Staff discussed placing the study sessions on Council's calendar when it is set, coming up with a way to let people in the audience know if the item they are here to hear will be over 2-3 hours, and incorporating the timing of the review of the rules into the actual document.

Council Member Hughes and Staff clarified legislative support or opposition to specific measures, rules for Council Members bringing an item back for reconsideration, language regarding the mayor interviewing, recommending, and ranking candidates for boards and commissions, and language regarding now allowing Council to have a discussion after a motion and second have been made.

Council Member loakimedes and Staff discussed the need to verify whether the

language was strong enough in the rules and procedures for bringing an issue back for discussion that could affect a third party.

Vice Mayor Schwartzman and Staff discussed the placement of items on the agenda that were continued from a previous meeting, requirements for posting agendas and packets, adding language regarding co-council members on page IX.D.29, having separate agendas for special and closed session meetings, nominations for Planning Commission (placing footnote to reference AG's opinion), the issue of Council discussion after a motion and second are made.

Mayor Patterson discussed her preference for the language from the California League of Cities (regarding discussion after motion/second are made).

Vice Mayor Schwartzman and Staff discussed the issue of reconsideration of an item on an agenda.

Council Member Ioakimedes and Staff discussed when a request for reconsideration of an item is due to the City Manager's office for placement on an agenda.

Mayor Patterson discussed referencing Council's custom procedures for running the meetings, memorializing that the rules and procedures are reviewed and updated, and the need to post Council's Rules and Procedures so the public is aware of the content.

Mayor Patterson summarized the proposed changes:

- State the purpose of the City Council Rules of Procedure (per the Open Government Ordinance)
- Define the regular and the business meeting (as consistent with League of California Cities)
- The range of study session format will be described in the discussion of the study session
- That Council adopt a study session calendar
- Review annually (IX.D.26) issue of consideration
- Add for sake of clarity that the mayor may interview
- Clarify when making a motion that there is a discussion (look at the League of California City's language and drop it in)
- Memorialize the idea that when an item is carried over to the next meeting, the intent is to have the item heard as soon as possible on the agenda
- Consider that closed session meetings are a separate category (the Open Government Ordinance would need to be changed)
- The reconsideration agenda item needs to be submitted one week (or language identified by Staff) prior to the agenda being posted

Mayor Patterson clarified that the item could come back on the consent calendar, however there were two undecided elements. Staff would make a determination if they were doable, and agendaize make a recommendation to

Council.

Public Comment:

None

E. CONSIDERATION OF AMENDMENTS TO THE FUND BALANCE RESERVE POLICY AND THE BALANCED OPERATING BUDGETS POLICY

RESOLUTION 11-51 - A RESOLUTION APPROVING ENHANCEMENTS TO THE FUND BALANCE RESERVE POLICY AND THE BALANCED OPERATING BUDGETS POLICY

Rob Sousa, Finance Director, reviewed the staff report.

Mayor Patterson and Staff discussed the need for minutes of the discussion at the FAB meeting,

Council Member loakimedes and Staff discussed Council utilizing wastewater funds to create a contingency fund surplus.

Council and Staff discussed the wastewater fund and requirements for the fund.

Council Member Campbell and Staff discussed the money in the Intermodal Fund, funds for the Community Center, and the Marina loan and Casa Vilarrasa (receivable).

Council Member Hughes and Staff discussed the City's ability to convert its accounts receivables into cash in the event of an emergency (and the need to be able to properly account for such an instance).

Mayor Patterson discussed the need to be clear on what the money could be spent on (currently it is too vague).

Vice Mayor Schwartzman and Staff discussed the current reserve, the reserve that is currently available for emergency purposes (\$240,000), the issue of converting the \$2 million receivable from Valero, developing a policy to address the above concerns, and concerns regarding the budget policy.

Council Member loakimedes and Staff discussed the \$2 million Valero receivables.

Vice Mayor Schwartzman and Staff discussed the City's auditor's response to the issue of receivables.

Council Member Campbell and Mr. Lowry discussed what the FAB understood the auditor's response was regarding the issue of receivables. Mr. Lowry

discussed how the FAB approached the budget discussion.

Mayor Patterson clarified that if the Resolution were adopted, Staff would come back to Council on 5/17 with the expenditure plan. Staff would continue to work on the categories for the findings, and the receivables.

Public Comment:

None

Council Member loakimedes clarified Council was also wanted to insert language clarifying the interfund transfers.

X. INFORMATIONAL ITEMS:

A. City Manager Reports

B. Council Member Committee Reports

Continued

1. **Mayor's Committee Meeting. (Mayor Patterson) Next Meeting Date: May 18, 2011**
2. **Association of Bay Area Governments (ABAG). (Mayor Patterson and Council Member loakimedes) Next Meeting Date: April 14, 2011**
3. **Finance, Audit and Budget Committee. (Vice Mayor Schwartzman and Council Member Campbell) Next Meeting Date: April 22, 2011**
4. **League of California Cities. (Mayor Patterson and Vice Mayor Schwartzman) Next Meeting Date: April 28, 2011**
5. **School Liaison Committee. (Council Members loakimedes and Hughes) Next Meeting Date: June 23, 2011**
6. **Sky Valley Open Space Committee. (Council Members Campbell and Hughes) Next meeting Date: May 4, 2011**
7. **Solano EDC Board of Directors. (Mayor Patterson and Council Member Campbell) Next Meeting Date: May 26, 2011**
8. **Solano Transportation Authority (STA). (Mayor Patterson and Council Member loakimedes) Next Meeting Date: April 20, 2011**
9. **Solano Water Authority-Solano County Water Agency and Delta Committee. (Mayor Patterson and Vice Mayor Schwartzman) Next Meeting Date: May 4, 2011**

10. **Traffic, Pedestrian and Bicycle Safety Committee. (Council Members Hughes and loakimedes) Next Meeting Date: April 25, 2011**
11. **Tri-City and County Regional Parks and Open Space. (Council Members Campbell and Hughes) Next Meeting Date: June 13, 2011**
12. **Valero Community Advisory Panel (CAP). (Council Member Hughes) Next Meeting Date: May 4, 2011**
13. **Youth Action Coalition. (Vice Mayor Schwartzman and Council Member Campbell) Next Meeting Date: April 27, 2011**
14. **ABAG-CAL FED Task Force-Bay Area Water Forum. (Mayor Patterson) Next Meeting Date: June 27, 2011**
15. **SOLTRANS Joint Powers Authority (Mayor Patterson, Council Member loakimedes) Next Meeting Date: April 21, 2011**

XI. COUNCIL MEMBERS REPORTS:

- A. Request to agendize the discussion of a methodology for use of outside consultants. Recommendation: Consider Council Member loakimedes request to agendize this topic for future City Council meeting.**

Continued

- B. Request to agendize the discussion of a methodology for the hiring of local firms. Recommendation: Consider Council Member loakimedes request to agendize this topic for future City Council meeting.**

Continued

XII. ADJOURNMENT:

Mayor Patterson adjourned the meeting at 11:59 p.m.

Lisa Wolfe, City Clerk