

MINUTES OF THE
SPECIAL MEETING – CITY COUNCIL
APRIL 21, 2009

The special meeting of the City Council of the City of Benicia was called to order by Mayor Elizabeth Patterson at 6:30 p.m. on Tuesday, April 21, 2009 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:

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:

WRITTEN COMMENT:

PUBLIC COMMENT:

None

ANNOUNCEMENT OF CLOSED SESSION:

Heather McLaughlin, City Attorney, read the announcement of Closed Session.

CLOSED SESSION:

- A. CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION (Government Code Section §54956.9(c))/CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Government Code Section §54956.8)
Strip of West 10th Street right-of-way adjacent to 994 West K Street
Negotiating parties: City Manager, City Attorney, Public Works Director

- B. CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Government Code Section §54956.8)
Excess Portion of Military West tight-of-way for the Military West Subdivision
Negotiating parties: City Manager, City Attorney, Public Works Director

ADJOURNMENT:

Mayor Patterson adjourned the meeting to Closed Session at 6:31 p.m.

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
APRIL 21, 2009

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Elizabeth Patterson at 7:10 p.m. on Tuesday, April 21, 2009 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:

Anne Cardwell 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:

Announcement of actions taken in Closed Session:

Ms. McLaughlin announced the following actions taken during Closed Session:

- A. Council decided to say no to the proposal, as it did not meet their expectations or the spirit (strip of West 10th Street right of way adjacent to 994 West K Street).
- B. Council gave Staff direction to execute the sale of property (excess portion of Military West right of way for the Military West Subdivision).

Openings on Boards and Commissions:

- Sky Valley Open Space Committee:
 - One unexpired term to September 30, 2010
 - One full term to January 31, 2013
- Parks, Recreation and Cemetery Commission:
 - One unexpired term to March 31, 2010
- Open Government Commission:
 - One unexpired term to November 30, 2010

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 746-4200.

APPOINTMENTS:

None

PRESENTATIONS:

Acceptance of the report on current status of IT Panoche Facility:

Ms. Kitty Hammer, Mr. Bruce Clark, and Mr. Ray Leclerc, reviewed the staff report and a slide show presentation (copy on file).

Council discussed various issues and requested an annual report be presented to Council.

Final report of the Ad Hoc Subcommittee on Tourism

Mr. Duane Oliveira and Ms. Christina Strawbridge reviewed the final report of the Ad Hoc Subcommittee on Tourism.

Public Comment:

1. Alan Shore – Mr. Shore discussed suggested recommendations regarding tourism as stated in his memo to Council (copy on file).

Mayor Patterson asked Mr. Erickson to review the suggestions and make them part of a future discussion when the budget is discussed.

PROCLAMATIONS:

- Recognition of National Volunteer Week – April 19–25, 2009
- Recognition of Earth Day – April 22, 2009

ADOPTION OF AGENDA:

Mr. Erickson suggested Council move item IX-C up in the agenda and have it immediately follow item IX-A, as the two items are dependant upon each other.

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

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

Noes: None

OPPORTUNITY FOR PUBLIC COMMENT:

WRITTEN:

Various items submitted (copies on file).

PUBLIC COMMENT:

1. Sonia McNally – Ms. McNally discussed the nonprofit exchange student program that she represents from U. C. Berkeley. The group is in need of families to participate in the program. Interested parties should contact her at soniamcnally@berkeley.edu
2. Bob Mutch – Mr. Mutch discussed the Citizens Corp Council.
3. Dan Clark – Mr. Clark encouraged citizens to attend the current production being put on by the Benicia Old Town Theatre Group.

4. Alan Shore – Mr. Shore discussed the ‘Adopt a Store’ program.
5. Nancy Martinez – Ms. Martinez invited everyone to attend Benicia Main Street’s Annual Farmer’s Market on 4/30/09. Benicia Main Street has become certified in the WIC Program at the Farmer’s Market. All farmers will participate in the WIC program.
6. Marilyn Bardet – Ms. Bardet discussed the air-monitoring workshop being put on by the Citizens Advisory Panel on 5/6/09.
7. Laurie Key – Ms. Key discussed a recent art show for the BMS Art Program. There was a silent auction and a walking art tour. It was very successful. There was participation from people outside Benicia. It increased tourism. It blended art, education, and business. They raised \$700 for the program.
8. Eric Martinez – Mr. Martinez discussed tourism in Benicia, and an upcoming article that he would be working on called ‘Spaces, Faces, and Places.’
9. Gene Daugherty – Mr. Daugherty discussed the need for volunteers on Earth Day to work in the Benicia Community Garden.
10. Susan Street – Ms. Street discussed the upcoming garden tour being hosted by the League of Women Voters.
11. Christina Strawbridge – Ms. Strawbridge praised Benicia Main Street for its efforts.
12. Vice Mayor Campbell – Vice Mayor Campbell praised various City employees (Mario Giuliani, Chris Tomasik, Rob Sousa, and Jim Erickson) for going out of their way in helping residents.

CONSENT CALENDAR:

Council pulled items VII-B, VII-C, VII-E, VII-F, and VII-H.

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

The Minutes of March 30, 2009 and April 7, 2009 were approved.

RESOLUTION 09-33 - A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A BILL OF SALE FOR THE SALE OF RETIRED POLICE SERVICES CANINE JET

RESOLUTION 09-34 - A RESOLUTION ACCEPTING THE UNTREATED WATER TRANSMISSION LINE REPAIR PROJECT AS COMPLETE, INCLUDING ONE CONTRACT CHANGE ORDER, AUTHORIZING THE CITY MANAGER TO SIGN THE NOTICE OF COMPLETION, AND AUTHORIZING THE CITY CLERK TO FILE SAME WITH THE SOLANO COUNTY RECORDER

ORDINANCE 09-09 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING CHAPTER 6.36 (FERAL, WILD AND UNDOMESTICATED

ANIMALS) OF TITLE 6 (ANIMAL CONTROL REGULATIONS) OF THE BENICIA MUNICIPAL CODE

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

(END OF CONSENT CALENDAR)

Council took the following actions:

Review of the Benicia Transit Short Range Transit Plan for Fiscal Years 2008-2018 - continued from the April 7, 2009 City Council Meeting:

Council and Staff discussed having a section in the plan that promotes transit, and changes to the ridership since the changes to Route 78 (ridership was flat).

On motion of Council Member Ioakimedes, seconded by Council Member Schwartzman, Council approved the Benicia Transit Short Range Transit Plan for Fiscal Years 2008-2018, on roll call by the following vote:

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

Noes: None

Consideration of awarding a contract for auditing services to Mayer Hoffman McCann P.C.:

Vice Mayor Campbell recognized the savings that the Finance, Audit, and Budget Committee achieved for the City (\$50,000-\$60,000).

RESOLUTION 09-35 - A RESOLUTION AWARDING A CONTRACT FOR AUDITING SERVICES TO MAYER HOFFMAN McCANN P.C.

On motion of Vice Mayor Campbell, 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

Approval of temporary rental of classroom space by St. Dominic's School at Benicia Community Center:

Council and Staff discussed the final figures for the cost of labor and materials (\$7,500 - which will be split with St. Dominic's), safety assessment of the site (children will not be near the construction zone), and Staff's collaboration and partnership with the St. Dominic's.

RESOLUTION 09-36 - A RESOLUTION APPROVING THE RENTAL OF CLASSROOM SPACE AT BENICIA COMMUNITY CENTER TO ST. DOMINIC'S SCHOOL FOR USE AS A TEMPORARY KINDERGARTEN CLASSROOM FOR THE REMAINDER OF THE ACADEMIC YEAR, AND AUTHORIZING THE

DIRECTOR OF PARKS AND COMMUNITY SERVICES TO SIGN THE RENTAL AGREEMENT ON BEHALF OF THE CITY

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

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

Noes: None

Approval of change orders for construction drawings, LEED implementation, and award of LEED consultant contract and direction on interim/immediate use for Benicia Community Center project:

Council and Staff discussed the cost of doing design and drawings, using some of the VIP funds to try and reduce the costs, Lighting and Landscaping Districts, using some of the VIP funds to help and get the Scouts into the new Community Center, making the Community Center as green as possible, having a cost analysis on the cost effectiveness of LEED, whether or not it delays the City's occupying the building, possibly attracting more money by 'greening up' the building, how the Good Neighbor Steering Committee intended the money to be used, various pots of money available for alternative energy, previous votes by Council to reduce greenhouse gasses, and finding a balance between the right thing to do environmentally and the right thing to do financially.

Public Comment:

1. Rick Ernst – Mr. Ernst discussed a recent interview on YouTube regarding LEED certified hotels.

RESOLUTION 09-37 - A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE, ON BEHALF OF THE CITY, CONTRACT CHANGE ORDERS WITH NOLL & TAM ARCHITECTS AND PLANNERS FOR THE BENICIA COMMUNITY CENTER PROJECT, TRANSFERRING \$107,318 FROM THE PARK DEDICATION ACCOUNT TO THE BENICIA COMMUNITY CENTER TENANT IMPROVEMENT ACCOUNT FOR THE PURPOSE OF CONSTRUCTION DRAWINGS AND MAINTENANCE IMPROVEMENTS AND AUTHORIZING THE EXPENDITURE OF \$121,535 FROM THE VIP SETTLEMENT AGREEMENT FOR LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN (LEED) REVIEW AND IMPLEMENTATION

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

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

Noes: Vice Mayor Campbell

RESOLUTION 09-38 - A RESOLUTION ACCEPTING THE PROPOSAL FOR LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN (LEED) SERVICES FOR THE BENICIA COMMUNITY CENTER PROJECT, AWARDED THE LEED CONSULTANT CONTRACT TO GREENBANK ASSOCIATES OF PIEDMONT

CALIFORNIA IN THE AMOUNT OF \$37,050, AUTHORIZING THE APPROPRIATION OF \$37,050 FROM THE VIP SETTLEMENT AGREEMENT AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONSULTANT CONTRACT ON BEHALF OF THE CITY

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

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

Noes: Vice Mayor Campbell

Second reading of an amendment to the animal control ordinance related to animal keepers permit provisions:

Council and Staff discussed concerns regarding the appeals process and having the onus on the applicant to bring some recognized standards of animal husbandry so there is not a lot of debate regarding situations, bringing the issue back as a first reading of an ordinance, putting the above issue in the initial approval of the permit as opposed to the appeals section, working with recognized authorities and not having the applicant provide the standards, and the need for direction on when a hobby becomes a business.

ORDINANCE 09-10 - AN ORDINANCE AMENDING CHAPTER 6.44 (ANIMAL KEEPER PERMIT) OF TITLE 6 (ANIMAL CONTROL REGULATIONS) OF THE BENICIA MUNICIPAL CODE

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

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

Noes: None

PUBLIC HEARINGS:

None

ACTION ITEMS:

Recommendations of the Cultural Arts Commission Working Group:

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

Ms. Lee Wilder-Snyder, and Mr. Kimble Goodman, Cultural Arts Commission Working Group, reviewed the recommendations of the Cultural Arts Commission Working Group. They reviewed a PowerPoint presentation (copy on file).

Public Comment:

1. Jon Van Landschoot – Mr. Van Landschoot spoke in support of the Benicia Arts and Culture Commission (BACC).

Mayor Patterson and Staff clarified that the direction would be to direct Staff to prepare an ordinance for establishing a commission and to be mindful of the timing of the ordinance as it would affect the City's budget.

Council Member Schwartzman discussed combining Arts, Cultural, and Tourism groups into one entity. There seemed to be a lot of overlap. He would like to hear a discussion with the groups on how they could all pull together into one group.

Council Member Ioakimedes disclosed expartè communications. He and Ms. Wilder Snyder discussed the makeup of the commission, whether non-resident participation would be allowed, assistance by City Staff to look into grants for the BACC, the current thriving Arts community (without having a commission), and taking the art talent to the next level.

Council Member Hughes and Ms. Wilder-Snyder discussed the desire for more specifics on the business case in the report, and what the commission could do for the community.

Mayor Patterson disclosed expartè communications. She discussed the need for a stand-alone working group, the issue of grant writing, the budget for the proposed commission, and how other cities handle their commissions.

Council Member Ioakimedes discussed past experience with commissions, and the need to be mindful of starting off in the right direction.

Council Member Schwartzman discussed the need for due diligence in discussing combining the two entities (arts/culture/tourism).

On motion of Vice Mayor Campbell, seconded by Mayor Patterson, Council directed Staff to prepare an ordinance establishing the Benicia Arts and Culture Commission, on roll call by the following vote:

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

Noes: Council Member Schwartzman

Mayor Patterson called for an 8-minute break at 9:59 p.m.

The meeting resumed at 10:10 p.m.

Approval of an untreated water delivery agreement with Valero Refining Company – California:

Jim Erickson, City Manager, discussed the new draft letter of agreement that was submitted to Council dated 4/21/09 (copy on file). Staff referenced item #3 in the letter and asked that there be rent on that money over a 12-month period.

Chris Tomasik, Assistant Director & Utilities Manager, reviewed the staff report.

Council Member Hughes and Staff discussed the interest rate.

Vice Mayor Campbell and Staff discussed the interfund transfer of funds, the \$2 million in VIP funds the City would receive from Valero, not confusing the VIP funds with the water agreement transfer, and how the payments to and from Valero would be handled,

Council Member Schwartzman discussed the current cost of paying Valero back for the property taxes.

Council Member Hughes discussed the money the City would be saving by paying off the property tax debt.

Council Member Schwartzman and Staff discussed Valero's ability to resell untreated water, and the cost of periodic testing of City equipment.

Vice Mayor Campbell, Mayor Patterson, and Staff discussed the draft letter dated 4/21/09, the fact that the new water rates would reflect the cost of water, the fact that it is no longer uninterruptable water, and Valero contributing to the City's reserves for any future water operations the City chooses to do.

Council verified the motion was to approve the resolution contingent upon the final agreement with the City and Valero, and not less than 4.5% interest, and authorizing the City Manager to execute the letter agreement without coming back to Council. Staff would then bring the loan agreements back to Council at the next meeting.

Ms. McLaughlin clarified that the resolution would be adopting the resolution in the agenda packet, authorizing the City Manager to sign something substantially similar to the draft letter dated 4/21/09, with the provision of interest at a rate of not less than 4.5%, conditioned upon a signed letter from Valero.

RESOLUTION 09-39 - A RESOLUTION APPROVING AN UNTREATED WATER DELIVERY AGREEMENT WITH VALERO REFINING COMPANY – CALIFORNIA

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

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

Noes: None

Approval of water purchase agreement with Solano Irrigation District Agreement:

Chris Tomasik, Assistant Director & Utilities Manager, reviewed the staff report.

Council Member Schwartzman and Staff discussed funding.

RESOLUTION 09-40 - A RESOLUTION APPROVING THE SOLANO IRRIGATION DISTRICT/CITY OF BENICIA SOLANO PROJECT WATER ALLOTMENT TRANSFER AGREEMENT

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

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

Noes: None

Plan for initial expenditure of VIP Settlement Funds:

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

Chris Howe, Valero, acknowledged the projects proposed tonight were appropriate. There is more work to be done.

Mayor Patterson disclosed expartè communications.

Dana Dean, Good Neighbor Steering Committee, discussed modifying the Good Neighbor Steering Committee's agreement, and her request to revisit this in two weeks to discuss modifying the agreement with Valero.

Vice Mayor Campbell and Ms. Dean discussed the elementary school education program (puppeteers), and where the original money being spent came from.

Council Member Hughes and Ms. Dean discussed the ability for the City to decide what programs (within the parameters) it wanted to spend the funds on.

Ms. McLaughlin discussed the approval process for use of the funds.

Council and Staff discussed how the agreements with Valero and the Good Neighbor Steering Committee worked.

Council Member Ioakimedes disclosed expartè communications, the City's current economic status, and the need for a way for more citizen participation in the process.

Ms. Dean discussed how the committee originally intended the process to flow with community involvement, the need for this item to be discussed earlier in the agenda, and the need to move forward.

Council Member Schwartzman discussed the benefits of using puppets to get messages across and what was being done with #2 in the report.

Public Comment:

1. Rick Ernst – Mr. Ernst discussed how the \$500 per resident could be handed out. He would like to see a sliding scale put in there.
2. Kathy Kerridge – Ms. Kerridge discussed the need for more public input on this issue and the possibility of involving the sustainability in the process.

Council verified the following list of expenditures per the staff report: #3 - Community Center LEED design (\$158,000), #4 - Hearthstone Solar Panels (\$30,000), #6 - Staff Support (\$75,000), #7 - School Programs (\$10,000 for elementary; \$40,000 SAGE Program at BHS).

On motion of Council Member Schwartzman, seconded by Council Member Hughes, Council approved the above expenditures, on roll call by the following vote:

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

Noes: None

On motion of Council Member Schwartzman, seconded by Council Member Hughes, at 11:32 p.m., Council agreed to continue the meeting to hear item XI-A, on roll call by the following vote:

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

Noes: Mayor Patterson

INFORMATIONAL ITEMS:

Reports from City Manager:

None

Council Member Committee Reports:

1. Mayor's Committee Meeting - (Mayor Patterson) - Next Meeting Date: May 20, 2009
2. Association of Bay Area Governments (ABAG) - (Mayor Patterson & Vice Mayor Campbell) - Next Meeting Date: April 23, 2009 – Spring General Assembly
3. Audit & Finance Committee – (Vice Mayor Campbell & Council Member Schwartzman) - Next Meeting Date: May 8, 2009
4. League of California Cities - (Mayor Patterson & Council Member Schwartzman) - Next Meeting Date: April 15-16, 2009
5. School Liaison Committee - (Council Members Ioakimedes & Hughes) - Next Meeting Date: June 11, 2009
6. Sky Valley Open Space Committee - (Vice Mayor Campbell & Council Member Ioakimedes) - Next Meeting Date: May 6, 2009
7. Solano EDC Board of Directors - (Mayor Patterson & Council Member Ioakimedes) - Next Meeting Date: April 30, 2009
8. Solano Transportation Authority (STA) - (Mayor Patterson & Council Member Schwartzman) - Next Meeting Date: May 13, 2009
9. Solano Water Authority/Solano County Water Agency and Delta Committee - (Mayor Patterson & Vice Mayor Campbell) - Next Meeting Date: May 14, 2009
10. Traffic, Pedestrian and Bicycle Safety Committee - (Vice Mayor Campbell & Council Member Hughes) - Next Meeting Date: April 23, 2009

11. Tri-City and County Regional Parks and Open Space - (Vice Mayor Campbell & Council Member Hughes) - Next Meeting Dates: Citizen's Advisory Committee – May 20, 2009 and Governing Board – May 11, 2009
12. Valero Community Advisory Panel (CAP) - (Council Member Hughes) - Next Meeting Date: May 6, 2009
13. Youth Action Task Force - (Council Members Ioakimedes & Schwartzman) - Next Meeting Date: April 22, 2009
14. ABAG/CAL FED Task Force/Bay Area Water Forum – (Mayor Patterson) - Next Meeting Date: April 27, 2009

COUNCIL MEMBER REPORTS:

Request to agendize review of 410 and 412 West K Street properties designation:

Council and Staff discussed whether this issue could be referred back to the HPRC.

Public Comment:

1. Phyllis Hartzell – Ms. Hartzell discussed the uniqueness of the properties at 410 and 412 West K Street. She requested Council consider this item on a future agenda. Homeowners within the district deserve the same consideration and protection for their properties.

On motion of Council Member Hughes, seconded by Council Member Schwartzman, Council agreed to agendize the review of 410 and 412 West K Street properties designation at a future Council meeting, on roll call by the following vote:

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

Noes: None

ADJOURNMENT:

Mayor Patterson adjourned the meeting at 11:35 p.m.

Lisa Wolfe, City Clerk