

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
MAY 5, 2009

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, May 5, 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).

ANNOUNCEMENTS/APPOINTMENTS/PRESENTATIONS/PROCLAMATIONS:

ANNOUNCEMENTS:

Mayor Patterson recognized Ann Cardwell and Staff for their efforts in preparing the City Council agendas.

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.

Solano Napa Commuter Information is celebrating California's Bike-to-Work Week from May 11 to May 15. As part of the weeklong festivities, Bike-to-Work Day is Thursday, May 14.

The paintings currently displayed in the Council Chambers are by Jody Mattison. Jodi is an award-winning painter working in the realist tradition.

APPOINTMENTS:

None

PRESENTATIONS:

Report from the Bay Area Air Quality Management District regarding the April 6, 2009 Valero sulfur release:

Jim Erickson, City Manager, described the incident at Valero on April 6, 2009.

Kelly Wee, Director of Compliance and Enforcement, Bay Area Air Quality Management District (BAAQMD), reviewed the incident. BAAQMD could not complete its investigation until Valero completes their internal investigation. Mr. Wee will report back to Council once BAAQMD's investigation is complete to report their findings.

Chris Howe, Valero, apologized to the City and its citizens for the inconvenience the sulfur release caused. Valero expects its internal investigation would be completed within the next two weeks.

Report from the Open Government Commission:

Ms. Lois Requist, Ms. Claire McFadden, and Mr. John Woods, Open Government Commission, reviewed the report. They reviewed a PowerPoint presentation (copy on file). Topics reviewed were: Focus on Community Engagement seminar, referring to residents as citizens rather than customers, what civic engagement is and not about, what civic engagement should do, community engagement logistics, helpful ideas for community meetings or workshops, three strategic community engagement process models (public education, public deliberation, and public dialogue), benefits of effective public involvement, and effective flow in the public involvement process.

PROCLAMATIONS:

- Peace Officers' Memorial Days & National Police Week
- Water Awareness Month – May 2009
- National Preservation Month – May 2009

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:

Various items submitted (copies on file)

PUBLIC COMMENT:

1. Marilyn Bardet – Ms. Bardet discussed the upcoming Air Quality Monitoring Workshop on 5/6/09.

2. Council Member Schwartzman – Council Member Schwartzman announced that the Benicia Rotary Club would be sponsoring an exchange student from Slovakia. He urged citizens to participate in the program.

CONSENT CALENDAR:

Council pulled item VII-B.

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 April 21, 2009 were approved.

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

(END OF CONSENT CALENDAR)

Council took the following actions:

City of Benicia Landscaping and Lighting District Fiscal Year 2009-10

Mayor Patterson expressed concern regarding spending the City's reserve funds to pay for the L&L Districts.

Rob Sousa, Finance Director, reviewed the staff report.

Council Member Hughes discussed the need to be proactive rather than reactive.

Council Member Ioakimedes and Staff discussed the need for language regarding being mindful of energy efficiency and conservation, water efficiency programs in City parks, and possible uses for the VIP funds.

Council Member Schwartzman encouraged Staff to follow up on the suggestions of Council regarding various issues, and the possibility of using VIP funds for water enhancements.

Vice Mayor Campbell and Staff discussed the issue of when the City would approach the property owners regarding a rate increase.

Mayor Patterson agreed with Vice Mayor Campbell regarding the need to increase the rates, concern regarding using reserve funds to support the L&L Districts, the need for Staff to come up with a recommendation on a rate increase for the upcoming budget process.

RESOLUTION 09-41 - A RESOLUTION DESCRIBING IMPROVEMENTS AND DIRECTING PREPARATION OF ENGINEER'S REPORT FOR THE CITY OF BENICIA LANDSCAPING AND LIGHTING DISTRICT, FISCAL YEAR 2009-2010

On motion of Council Member Hughes, 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

RESOLUTION 09-42 - A RESOLUTION PRELIMINARILY APPROVING THE ENGINEER'S REPORT FOR THE CITY OF BENICIA LANDSCAPING AND LIGHTING DISTRICT, FISCAL YEAR 2009-10

On motion of Council Member Hughes, 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

RESOLUTION 09-43 - A RESOLUTION OF INTENTION TO ORDER THE LEVY AND COLLECTION OF ASSESSMENTS PURSUANT TO THE LANDSCAPING AND LIGHTING ACT OF 1972 AND THEREFORE SETTING A PUBLIC HEARING ON JUNE 2, 2009 FISCAL YEAR 2009-10 CITY OF BENICIA LANDSCAPING AND LIGHTING DISTRICT

On motion of Council Member Hughes, 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

PUBLIC HEARINGS:

None

ACTION ITEMS:

Recommendation of the sustainability working group to establish a commission:

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

Gene Doherty, Jim Stevenson, Kathy Kerridge, Michael Paric, and Dan Jensen, Sustainability Working Group, reviewed a PowerPoint presentation (copy on file).

Topics reviewed were: the charge of the Working Group, setting the context, the process the group went through, sustainability prospects, water conservation, green house gas reduction, costs for green house gas technologies, energy efficiency, job creation, transportation, the commission's mission, the scope of the commission, funding for administration, ongoing funding, funding for projects.

The Sustainability Working Group recommended forming a City commission with staff support, calling the commission the Community Sustainability Commission, the makeup should be 9 members appointed by the Mayor and confirmed by Council, terms of four

years, and having BUSD, Valero, and the Good Neighbor Steering Committee have ex officio representatives on the commission.

Council Member Hughes clarified that the request was for \$75,000 for staffing.

Mr. Erickson discussed the idea of an advisory vs. a directory commission, having a mandatory check-back or mandatory review period, the issue of overlapping responsibilities with other commissions, and the issue of funding.

Public Comment:

1. Dana Dean and Chris Howe – Ms. Dean and Mr. Howe discussed the structure for funding the various projects. They are working on it and it will be presented to Council in the future. They discussed the need for a mechanism for the transfer of the funds for water conservation. They will try and get the information to Council in time for the next agenda. They discussed future sources of funding for conservation projects in the City, and the need for Council approval on the expenditure of the VIP funds.
2. Dan Smith – Mr. Smith spoke in support of establishing the proposed commission.
3. Marilyn Bardet – Ms. Bardet spoke in support of establishing the proposed commission.
4. Jon Van Landschoot – Mr. Van Landschoot spoke in support of establishing the proposed commission.

Council Member Schwartzman discussed his support of having a commission, concerns regarding it being advisory, Council having an annual review, and the issue of overlapping responsibilities.

Council Member Hughes discussed the level of staff support required to support the proposed commission, making it clear that would be an advisory commission, the need for an annual review, future funding requirements, the issue of overlap, and the need to be clear on the scope of the commission.

Council Member Ioakimedes discussed concerns regarding funding, possible matching dollar grants, concerns regarding commute language, concerns with making BUSD and Valero ex-officio members, the need for more of an emphasis on waste management, concerns regarding transportation (why the train station was not mentioned), concerns regarding the health component, and concerns relating to SB 375.

Mayor Patterson discussed her desire for a motion to include incorporating the principles in the resolution and add some that were heard tonight, and have the ordinance come back to Council as soon as possible. She saw the commission as an advisory commission with a level of expertise. There was no intent to subsume any of the authority or responsibilities of other boards or commissions. The reference for the structure for funding needs to be an integral part of the ordinance (as an implementation tool referenced by the ordinance). She discussed the need for the ordinance to reference the commission funding itself, future funding options, the ex officio status of BUSD and

Valero, including the train, the issue of recycling, adding the health aspect, and adding language regarding SB 375.

On motion of Vice Mayor Campbell, seconded by Council Member Schwartzman, Council directed Staff to approve the concepts presented in the working group's recommendations, taking into consideration the comments added by Council to the public comments, on roll call by the following vote:

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

Noes: None

Mayor Patterson called for a break at 9:38 p.m.
The meeting resumed at 9:46 p.m.

Review of reuse study for Commanding Officer's Quarters and direction regarding short-term use:

Mario Guiliani, Management Analyst, reviewed the staff report.

Charlie Duncan, Carey & Co. Inc. reviewed a PowerPoint presentation (copy on file). Vice Mayor Campbell discussed the issue of restaurants at the site, and the effect scheduling events at the site would have on the Clocktower's schedule.

Council Member Schwartzman discussed the incredible job Staff did on the building, the need to keep the building in historic order regardless of the use, concerns regarding tables, chairs, etc. for meetings and groups and who would be responsible for supplying them.

Council Member Ioakimedes discussed not being able to envision a restaurant at the site.

Mayor Patterson discussed the citizens committee that used the Brothers Lighthouse (it was a 501c3), having the specific plan amended to include the reuse study, how to go about transitioning from short term to mid term to long term, and how to go about starting a citizens committee.

Public Comment:

1. Lee Wilder Snider – Ms. Wilder Snider discussed the issue of expanding the short-term use, and the possibility of the City allowing Arts Benicia to occupy office space.
2. James Lessenger – Mr. Lessenger complimented Staff on the rehabilitation of the site. He discussed the history of the occupancy of the site and the need for someone to continually occupy the site. He discussed the Benicia Historical Museum's offer to be the landlord for the site, and a book that the Museum was working on regarding the site.
3. Marilyn Bardet – Ms. Bardet discussed having tenants upstairs but not phasing out the public use downstairs.
4. Jim Stevenson – Mr. Stevenson discussed the interest that the museum's book might generate for the site.

5. Jon Van Landschoot – Mr. Van Landschoot discussed a recent tour he and his wife took of the site, the need to not allow the site to go back to how bad it was, and the possibility of having a HPRC meeting at the site.

Staff discussed the issue of not being able to use the site for office space at this time, the ability to use the building on a limited basis for now, and Staff's ability to handle the rental and management of the site at this time.

Council Member Schwartzman discussed the issue of renting out the top addition of the site and what it would take to run the phone and data cables to that section of the building.

Mayor Patterson discussed wanting to see a motion that deals with the issues of immediate occupancy, a process for tenancy with the protection of public use, the exploration of the incorporation into the specific plan, and exploring a voluntary committee (coming up with a game plan).

Council Member Hughes discussed how impressed he was with the site, the need to begin using the site now, support for purchasing tables and chairs for the site, support for private use on second floor and public use on main floor, the need to move forward and aggressively solicit tenants to use it for meetings and events. Staff should look at medium and long term use, look at cost for tenant improvements so it could be used quickly, and report back to Council with its recommendations.

Vice Mayor Campbell inquired about moving all non-televised commission meetings to the site on a temporary basis (to the extent possible). Staff would look into the issue.

Council and staff discussed the issue of possibly moving City Attorney's office the site.

Council Member Ioakimedes discussed the City Attorney's office being in the trailer, the excellent job staff did on the site, possibly moving some of the events that have outgrown Downtown out to the Arsenal, not separating the district from the building and vice versa, the need for immediate occupancy, possibilities for having a citizens committee, incorporating a 501c3, balance for public access, and maintaining the beauty of the site.

Council Member Schwartzman and Staff discussed the specific plan.

On motion of Council Member Hughes, seconded by Vice Mayor Campbell, Council directed Staff address immediate occupancy, develop a plan for tenancy, incorporating the reuse study into the specific plan (as a separate process that does not delay the occupancy), come back with a recommendation on what a committee would look like, and include authorization to spend funds (up to \$25,000) for miscellaneous furniture, on roll call by the following vote:

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

Noes: None

Extension of the medical marijuana dispensary and hookah lounge moratorium ordinance:

Kat Wellman, Contract Attorney, reviewed the staff report.

Public Comment:

1. Jose Giandinoto – Mr. Giandinoto spoke in support of medical marijuana dispensaries.

Council and Staff discussed the process for obtaining medical marijuana prescriptions.

ORDINANCE 09-11 - AN ORDINANCE TO EXTEND ORDINANCE 09-07, AN URGENCY INTERIM ORDINANCE APPROVING AN INTERIM ZONING MORATORIUM ON THE ESTABLISHMENT OF MEDICAL MARIJUANA DISPENSARIES AND HOOKAH LOUNGES IN THE CITY OF BENICIA AND ADOPTING FINDINGS INCLUDING ENVIRONMENTAL FINDINGS AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN

On motion of Hughes, seconded by Vice Mayor Campbell, the above Ordinance was adopted, on roll call by the following vote:

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

Noes: None

INFORMATIONAL ITEMS:

Reports from City Manager:

None

COUNCIL MEMBER REPORTS:

None

ADJOURNMENT:

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

Lisa Wolfe, City Clerk