

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
MAY 6, 2008

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Elizabeth Patterson at 7:02 p.m. on Tuesday, May 6, 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:

Openings on Boards and Commissions:

- Sky Valley Open Space Committee:
One unexpired term to September 30, 2010
- Human Services and Arts Board:
One unexpired term to June 30, 2009
Three full terms to June 30, 2012
- Benicia Housing Authority Board of Commissioners:
One unexpired term to June 30, 2009
One full term to June 30, 2012
- Economic Development Board:
Two full terms to June 30, 2012
- Library Board of Trustees – Poet Laureate:
One full term to June 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 746-4210 or by email acardwell@ci.benicia.ca.us.

APPOINTMENTS:

None

PRESENTATIONS:

None

PROCLAMATIONS:

1. Recognition of Anthony J. Horner, City of Benicia Firefighter/Paramedic
2. National Public Works Week – May 18 – 24, 2008
3. Water Awareness Month – May 2008
4. Recognition of Police Officer's Memorial Dates in May 2008
5. National Safe Boating Week – May 17 – 23, 2008

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 (hard copies on file).

PUBLIC COMMENT:

1. Anne Hansen - Ms. Hansen discussed her appreciation for the City's Safety Officers, she was glad the belfry was brought home, and the Benicia Historical Museum's Founder's Day Celebration which will be held on May 17, 2008.
2. Gene Daugherty - Mr. Daugherty discussed the upcoming community rally to raise awareness to keep the State Parks from being closed.
3. Kimble Goodman - Mr. Goodman discussed the need to keep our State Parks open. He encouraged citizens to write to Sacramento.

CONSENT CALENDAR:

Council pulled items VII-D and VII-E.

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

The Minutes of April 15, 2008 were approved.

Council approved the denial of the claim against the City by Jolee Tacheny.

RESOLUTION 08-40 - A RESOLUTION APPROVING UPDATES TO THE JOB DESCRIPTIONS FOR SENIOR ADMINISTRATIVE CLERK AND WATER QUALITY SUPERVISOR

RESOLUTION 08-41 - A RESOLUTION APPROVING THE JOB DESCRIPTION FOR ASSOCIATE ENGINEER AND ESTABLISHING THE SALARY RANGE

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 consultant agreement for engineering services for the chemical trench replacement at the Water Treatment Plant:

Mayor Patterson pulled this item to inquire why the City is using an outside consultant for these services. Mr. Erickson and Mr. Schiada stated that outside consultants were being used because the City did not have staff with the level of expertise needed for the project.

Council and Staff discussed the leak that was discovered and instrumentation to detect future leaks.

RESOLUTION 08-42 - A RESOLUTION APPROVING THE CONSULTANT AGREEMENT FOR ENGINEERING SERVICES FOR THE CHEMICAL TRENCH REPLACEMENT AT THE WATER TREATMENT PLANT WITH CAMP DRESSER & MCKEE, INC. FOR A NOT-TO-EXCEED COST OF \$89,765, AND AUTHORIZING THE CITY MANAGER TO SIGN THE AGREEMENT ON BEHALF OF THE CITY

On motion of Council Member Schwartzman, seconded by Council Member 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

Consideration of City of Benicia Landscaping and Lighting District Fiscal Year 2008-09. Mayor Patterson pulled this item to inquire about District II, which has a small amount of reserves.

Council and Staff discussed three parcels purchased by Caltrans, ongoing negotiations with Caltrans and property owners, investigating the cost for having certain portions of the district conducted by private businesses, billing each of the property owners individually, the district was balanced and will continue for the next year, staff reporting back to Council several times in the next few months, Staff level meetings with Caltrans and the property owners, past discussions on this issue at three Audit and Finance Committee meetings, Caltrans' request to make payments in a 'lump sum' style, as opposed to regular payments, confirmation that Caltrans was currently paying regular fees, low reserves in Zone I, approaching property owners in the winter to discuss increasing fees, hiring high school kids at lower rates to take care of the grounds (like what is done at the James Lemos Pool), the need for this to go back to the Audit and Finance Committee to look into other creative solutions, educating the property owners

on what they are getting for their money, and conducting outreach to educate the property owners.

Mayor Patterson stated that pending the motion to pass the resolution, the direction to Staff would be to have the Audit and Finance Committee take a look at this, make its strong recommendations with a particular emphasis on outreach efforts.

RESOLUTION 08-43 - A RESOLUTION DESCRIBING IMPROVEMENTS AND DIRECTING PREPARATION OF ENGINEER'S REPORT FOR THE CITY OF BENICIA LANDSCAPING AND LIGHTING DISTRICT, FISCAL YEAR 2008-2009

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

RESOLUTION 08-44 - A RESOLUTION PRELIMINARILY APPROVING THE ENGINEER'S REPORT FOR THE CITY OF BENICIA LANDSCAPING AND LIGHTING DISTRICT, FISCAL YEAR 2008-09

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

RESOLUTION 08-45 - 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 3, 2008 FISCAL YEAR 2008-09 CITY OF BENICIA LANDSCAPING AND LIGHTING DISTRICT

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

PUBLIC HEARINGS:

Initial hearing for Benicia Business Park Vesting Tentative Map and Rezoning:

Jim Erickson, City Manager, set parameters for this portion of the meeting. It was not scheduled for action tonight. There could potentially be three meetings, with potential action being taken on the project on June 3, 2008. Staff continues to work with the developer to discuss the 216 proposed conditions. The General Plan vision for this parcel is Industrial. This could be a big part of the City's economic well-being. The project has been sized down since the last proposal, nevertheless, it is still a very big project – with a

potential of 5,000+ jobs, approximately \$500,000 of annual net revenue for the City at full build out, and substantial changes to the environmental conditions in the area. The mitigated project before Council is substantially different, mostly in a positive way – the developed land has been reduced from 60% to 40%, the industrial lands have been reduced from 280 acres to 150 acres, wetlands and creeks have been preserved, and significant hilltops and hillsides have been preserved in this proposal. LSA has indicated that the proposed mitigated project would be substantially consistent with the policies, programs, and goals in the adopted General Plan for the purposed of environmental protection. On April 10, the Planning Commission recommended denial of the project. Following all of the hearings, comments, subject to the 216 recommended conditions, subject to the unnecessary grading on the westerly commercial parcel, subject to achieving additional greenhouse gas emission reduction components as noted in the staff report – with those conditions and changes, Staff feels the project can and should be approved.

Charlie Knox, Community Development Director, reviewed staff report.

Council and Staff discussed traffic reduction, traffic analysis, commercial hill being level – softening that feature, reaction of applicant on the 216 conditions, opportunities for the Planning Commission to review the proposed addendum by LSA, CEQA checklist, and design issues, next Planning Commission meeting date (6/12/08) is after the 6/3/08 Council meeting, gaming of the process, not allowing the gaming to win, organization of the conditions, getting a written design of how the conditions will be managed, confusion in language ‘continue consideration’, public’s access to DVD’s of tonight’s meeting.

Council and Mr.Clore discussed the mitigated proposed project, wetlands and riparian areas and drainages, previously approved DEIR, supplemental EIR, traffic issues, noise impacts, sound walls, rubberized asphalt, and deferring to the independent experts (such as LSA) when it comes to real technical issues.

Proponent:

Mr. Carl Campos, Loving and Campos Architects, Inc., presented Seeno’s significantly revised project via a PowerPoint Presentation titled ‘Benicia Business Park’ (hard copy on file).

Council and Mr. Campos discussed pervious vs. impervious, whether the revised project avoids any unavoidable significant impacts, previous Council request for examples of projects that the proponent had built that had the same amount of high quality Seeno has mentioned – the request was not met – Council would still like the list of examples, and why 12 firefighters would be needed for the area.

Mayor Patterson called for a 5 minute break at 9:17 p.m.

The meeting resumed at 9:25 p.m.

Public Hearing Opened

Public Comment:

1. Jerome Page, Benicia First - Mr. Page stated that Benicia First was under the impression there would not be a presentation by Seeno tonight. Benicia First was not prepared to give an organized presentation. Benicia First will have a formal presentation at next meeting.

Mayor Patterson confirmed that as the organized opponent of the project, Benicia First would be given the same amount of time as the proponent had tonight at the next Council meeting.

Council Member Schwartzman asked if the proponent would get an additional 15 minutes at the next Council meeting as well. Mayor Patterson confirmed they were done. Ms. McLaughlin confirmed that the applicant would be provided time for rebuttal at the May 20, 2008 meeting.

Mr. Page spoke in opposition of the proposed project.

2. Rod Cameron - Mr. Cameron stated that he would return on May 20, 2008 to speak on this issue.
3. Bill Cawley - Mr. Cawley spoke in support of the proposed project.
4. Janice Adams, Superintendent, Benicia Unified School District - Ms. Adams expressed BUSD's concerns regarding the impacts of the project on the health and safety of its students, concerns regarding traffic issues, air quality and noise. The District's concerns were previously submitted in writing to the City.
5. Norma Fox – Ms. Fox requested the email she sent Council be copied and placed on the back table at the May 20, 2008 Council meeting. She spoke in opposition to the proposed project.
6. Marilyn Bardet - Ms. Bardet spoke in opposition of the proposed project. She submitted information to Council (copy on file).
7. Scott Strawbridge - Mr. Strawbridge spoke in support of the proposed project.
8. Sabina Yates - Ms. Yates spoke in opposition of the proposed project. She read a prepared statement (hard copy on file).
9. Susan Street – Ms. Street read an article regarding green programming. She spoke in opposition to the proposed project.
10. Barbara Bosworth - Ms. Bosworth stated she would not speak at this time.
11. Dana Dean - Ms. Dean spoke on behalf of Citizens Considering the Consequences. She stated she would speak again at the May 20, 2008 meeting. She expressed concern regarding the agenda language being misleading, the Planning Commission's findings were not included in the agenda packet, she requested the Planning Commission's findings be included in the May 20, 2008 Council agenda packet, the issue of relying on independent experts in a CEQA setting, and the issue of a development agreement.
12. Joel Fallon - Mr. Fallon read a poem. He spoke in opposition of the proposed project.
13. Dan Smith - Mr. Smith spoke in opposition of the proposed project.
14. Keith Dias - Mr. Dias spoke in favor of the proposed project.

15. Bob Mutch - Mr. Mutch spoke in favor of the proposed project.
16. Steve Goetz - Mr. Goetz spoke in opposition of the proposed project. He read a prepared statement (hard copy on file).
17. J.B. Davis - Mr. Davis spoke in opposition of the proposed project.
18. Bob Craft - Mr. Craft spoke in opposition to the proposed project. He discussed the need for proactive leadership.
19. Dan Jensen - Mr. Jensen discussed past experience in looking for commercial space for technology companies.
20. John Van Landschoot – Mr. Van Landschoot spoke in opposition to the proposed project. He discussed concerns regarding the developer and campaign contributions.

Council Member Schwartzman stated that no money was given to him by the developer.

Council Member Hughes stated that he did not take a penny from Seeno during his campaign.

Public Hearing Closed

Council Members Schwartzman and Hughes stated for the record that they did not accept campaign contributions from Seeno.

Council gave direction to Staff to continue this Public Hearing to the May 20, 2008 Council meeting.

Council disclosed ex-parte communications with regards to this item.

Mayor Patterson stated that there seemed to be three themes that have come out of the testimony heard, as well as her own ideas. If Council could capture and have agreement on the three themes and get Staff to come back to Council at the May 20, 2008 meeting with further reporting. She suggested Council put their individual comments in writing. The three themes are the use of the development agreement, not only for certainty in giving us third party rights on the conditions of approval, but also on funding mechanisms that will be discussed, and the sense of phasing and the kinds of uses. There were issues in terms of further written description on the distinction of a new project, particularly based on case law.

Council discussed getting written comments to staff by Monday, April 12, 2008, lack of time for Staff to respond to the comments in time for the next agenda, concerns of budget impacts regarding Fire and Police, how to avoid Brown Act violations, and the issue of including a development agreement in the conditions of approval.

On motion of Council Member Schwartzman, seconded by Council Member Hughes, Council agreed to hear item IX-B prior to item IX-A, on roll call by the following vote:
Ayes: Council Members Campbell, Hughes, Ioakimedes, Schwartzman and Mayor Patterson

Noes: None

ACTION ITEMS:

Approval of reimbursement agreement for roadway improvements to Columbus Parkway related to the Rose Center Project:

Dan Schiada, Public Works Director, reviewed staff report.

Council and Staff discussed the consequences of Council not approving the agreement, timing of the reimbursement, cost of improvement (roughly \$300,000), the development of the three parcels between Vallejo and Benicia, and clarification on the issue of waiving the plan check fees (\$15,000 total), and confirmation that it was a realistic timeframe to get work done.

RESOLUTION 08-46 - A RESOLUTION APPROVING THE REIMBURSEMENT TO DEVELOPER AGREEMENT ON ROSE CENTER PROJECT FOR COLUMBUS PARKWAY WIDENING IMPROVEMENTS AND AUTHORIZING THE CITY MANAGER TO SIGN SAID AGREEMENT ON BEHALF OF THE CITY

On motion of Council Member Hughes, seconded by Council Member 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

On motion of Vice Mayor Campbell, seconded by Council Member Schwartzman, at 11:00 p.m., Council approved continuing the meeting past 11:00 p.m., on roll call by the following vote:

Ayes: Council Members Campbell, Ioakimedes and Schwartzman

Noes: Council Member Hughes and Mayor Patterson

Update on Intermodal Transportation Station:

Dan Schiada, Public Works Director, reviewed staff report.

Council and Staff discussed funding, what the money in the funds could and could not be used for, being proactive and aggressive in terms of ferry service, bus service, train station, etc., a letter staff previously sent to STA, park and ride areas, clarification on what the City would be giving up moving forward with a short-term solution.

On motion of Council Member Schwartzman, seconded by Vice Mayor Campbell, Council gave direction to Staff on pursuing Regional Measure 2 funding for regional bus stop(s) with park-and-ride facilities as short-term improvements to improve regional transit connections in Benicia and for a feasibility study on a long-term intermodal facility, 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:

Summary of League of California Cities Legislative Action Days:

Jim Erickson, City Manager, reported on The League of California Cities Legislative Action Days.

COUNCIL MEMBER REPORTS:

Consideration of potential AT&T Cable Service for Benicia. (Vice Mayor Campbell):

Council and Staff discussed concerns regarding placing boxes above ground and possible problems with noise. This item will be placed on a Council agenda sometime in October or November.

ADJOURNMENT:

Mayor Patterson adjourned the meeting at 11:17 p.m.

Lisa Wolfe, City Clerk