

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
MAY 20, 2008

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 20, 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:

Mayor Patterson 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:
Two unexpired terms - one to June 30, 2009 and one to June 30, 2010
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:

None

ADOPTION OF AGENDA:

Jim Erickson, City Manager, suggested setting and ending time of 10:00 p.m. for item VIII-A so that items IX-B and IX-C could be discussed, as they are time sensitive items.

Council Member Hughes suggested moving IX-C to the consent calendar as another option. Mayor Patterson confirmed there was a citizen who wished to comment on item IX-C. Vice Mayor Campbell suggested moving item IX-C to the consent calendar and pulling it for discussion.

On motion of Council Member Hughes, seconded by Council Member Schwartzman, Council approved moving item IX-C to the consent calendar, 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, 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 (hard copies on file).

PUBLIC COMMENT:

1. Jon Van Landschoot – Mr. Van Landschoot apologized for comments he made regarding Seeno donating money directly to candidates during the last election. However, Seeno did spend a lot of money in the last two elections. He believes and trusts that Seeno bought nothing.

Council Member Schwartzman read a prepared statement regarding his 2005 campaign and expenditures made by Seeno, undue influence, and integrity.

2. Steve Goetz – Mr. Goetz discussed concerns regarding the Solano County General Plan.

Council and Staff discussed concerns raised by Mr. Goetz.

3. Rick Ernst – Mr. Ernst congratulated Mr. Schiada for the successful Public Works Week events last weekend. He inquired about the process for having a consent calendar item pulled for discussion. Mayor Patterson explained the process for having a consent calendar item pulled for discussion. Mr. Ernst requested that item IX-C be pulled for discussion.

CONSENT CALENDAR:

Council pulled items C, D, and IX-C.

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 May 6, 2008 were approved.

RESOLUTION 08-47 - A RESOLUTION ACCEPTING THE BENICIA HIGH SCHOOL IRRIGATION PROJECT AT BENICIA HIGH SCHOOL, AUTHORIZING THE CITY MANAGER TO SIGN THE NOTICE OF COMPLETION AND CITY CLERK TO FILE SAME WITH THE SOLANO COUNTY RECORDER

RESOLUTION 08-48 - A RESOLUTION APPROVING THE CONTRACT AMENDMENT IN THE AMOUNT OF \$75,000 WITH BUREAU VERITAS FOR PROFESSIONAL SERVICES FOR PLAN REVIEW AND BUILDING INSPECTION SERVICES AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

Council accepted the investment report for the quarter ending March 2008.

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

(END OF CONSENT CALENDAR)

Council took the following actions:

Award of construction contract for Commandant's Residence Rehabilitation Project and declare intention to issue tax-exempt obligations:

Mike Alvarez, Parks and Community Services Director, reviewed the staff report.

Public Comment:

1. Rick Ernst – Mr. Ernst discussed concerns regarding the City going into debt to finance the project.

Council and Staff clarified that tonight's actions were simply to award the construction contract. There would be a financing workshop on July 1, 2008 where various funding options would be discussed. The reason the second

resolution was attached to this item was that it was necessary to qualify for funding in the future.

2. Marilyn Bardet – Ms. Bardet spoke in support of the project.
3. Jon Van Landschoot – Mr. Van Landschoot inquired if the scope of work and project description were the same as they were in January. Staff confirmed that was correct.

RESOLUTION 08-49 - A RESOLUTION ACCEPTING THE BIDS FOR THE COMMANDANT'S RESIDENCE REHABILITATION PROJECT, AWARDING THE CONSTRUCTION CONTRACT TO PACIFIC COAST RECONSTRUCTION AND BUILDING INC. (PCRB) OF CONCORD CALIFORNIA IN THE AMOUNT OF \$2,914,687, AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONSTRUCTION CONTRACT ON BEHALF OF THE CITY

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

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

Noes: None

RESOLUTION 08-50 - RESOLUTION DECLARING ITS INTENT TO ISSUE TAX-EXEMPT OBLIGATIONS TO BE USED TO REIMBURSE THE CITY FOR EXPENDITURES PRIOR TO THE ISSUANCE OF SUCH TAX-EXEMPT OBLIGATIONS

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

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

Noes: None

Acceptance of the West 7th Street Storm Drain Project, including change orders:
Council and Staff discussed high and low flow drains, meandered low flow riparian planted flow area, surface channels open swale, and surface precipitation.

RESOLUTION 08-51 - A RESOLUTION ACCEPTING THE WEST 7th STREET STORM DRAIN PROJECT AS COMPLETE, INCLUDING CHANGE ORDER NOS. 1 THROUGH 5, AUTHORIZING THE CITY MANAGER TO SIGN THE NOTICE OF COMPLETION, AND AUTHORIZING THE CITY CLERK TO FILE SAME WITH THE SOLANO COUNTY RECORDER

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

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

Noes: None

Acceptance of the City Hall Bathroom Renovation Project, including change orders:
Council and Staff discussed where the leftover funds would be going. Staff confirmed the funds were committed to the additional work at the Benicia Community Center.

RESOLUTION 08-52 - A RESOLUTION ACCEPTING THE CITY HALL BATHROOM RENOVATION PROJECT AS COMPLETE, INCLUDING CHANGE ORDER NOS. 1 THROUGH 3, AUTHORIZING THE CITY MANAGER TO SIGN THE NOTICE OF COMPLETION, AND AUTHORIZING THE CITY CLERK TO FILE SAME WITH THE SOLANO COUNTY RECORDER

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

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

Noes: None

PUBLIC HEARINGS:

Public Hearing for Benicia Business Park Vesting Tentative Map, Master Plan Overlay and Rezoning (Continued from May 6, 2008 City Council Meeting):

Mayor Patterson requested speakers not repeat comments that have already been made, as there were many citizens who wished to speak on this item.

Ms. McLaughlin explained that after additional testimony was heard tonight, the public hearing would be continued to June 3, 2008 and tonight's meeting would be adjourned to June 3, 2008 as well. At that time, Council would combine them together and have a regular meeting as well.

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

Council and Staff discussed how to approach its response to comments and various mitigation measures.

Mayor Patterson clarified that the opponent to the project would be allowed the same amount of time (22 minutes) as the proponent was afforded at the last Council meeting.

Opponent:

Jerome Page, Chair, Benicia First, stated that Mr. Donald Dean would present a PowerPoint presentation. Mr. Page reviewed Mr. Dean's professional qualifications.

Donald Dean reviewed a PowerPoint presentation (hard copy on file).

After 22 minutes had passed, Mayor Patterson informed Mr. Dean that his time was up. Mr. Dean stated that the applicant indicated to him that they did not have a problem with Benicia First taking as much time as it needed to get through its presentation. He asked for additional time to finish the presentation. Mayor Patterson indicated that would be

acceptable as long as there were no objections. Hearing no objections, Mayor Patterson allowed Mr. Dean to finish the PowerPoint presentation.

Council and Mr. Dean discussed organizing the conditions of approval and the difference between an applicant volunteering to do something vs. it being required under the project conditions.

Applicant:

Mr. Sal Evola, Discovery Builders, stated that he wished to reserve his rebuttal until after the public had a chance to comment. Ms. McLaughlin confirmed that was acceptable.

Public Hearing Opened

Public Comment:

1. Marilyn Bardet - Ms. Bardet spoke in opposition of the proposed project. Ms. Bardet submitted comments (hard copy on file).
2. Norma Fox - Ms. Fox spoke in opposition of the proposed project. Ms. Fox submitted comments (hard copy on file).
3. Sue Johnson - Ms. Johnson spoke in opposition of the proposed project.
4. Sabina Yates - Ms. Yates spoke in opposition of the proposed project. Ms. Yates submitted comments (hard copy on file).
5. David Dias - Mr. Dias stated that he was in favor of the proposed project, but would save his comments for the June 3, 2008 meeting.
6. Susan Street - Ms. Street spoke in opposition of the proposed project.
7. Dana Dean - Ms. Dean spoke in opposition of the proposed project.
8. Laurie Key - Ms. Key spoke in opposition of the proposed project.
9. Steve Goetz - Mr. Goetz spoke in opposition of the proposed project. Mr. Goetz submitted comments (hard copy on file).
10. Ramon Castellblanch - Mr. Castellblanch spoke in opposition of the proposed project.
11. Kathy Kerridge - Ms. Kerridge spoke in opposition of the proposed project.
12. Paula Schwartz - Ms. Schwartz spoke in opposition of the proposed project.

Mayor Patterson called for a 5-minute break at 9:23 p.m.

The meeting resumed at 9:30 p.m.

13. Nancy Lund - Ms. Lund spoke in opposition of the proposed project.
14. Carl Campos, Loving & Campos Architects - Mr. Campos reviewed the chain of events regarding its involvement in the project up to this point. He spoke in favor of the proposed project.
15. Kristina Lawson, Miller Starr Regalia - Ms. Lawson, attorney for Discovery Builders Inc., discussed the chain of events up to this point, her opinion that the addendum was adequate, the urban decay and economic analysis of the project, the legal standard being misquoted earlier this evening, applicant agreed to all mitigation measures when the EIR was certified, the applicant has not requested that those mitigation measures be changed, and the issue of a development agreement.

16. Lewis Parsons, Discovery Builders, Inc. - Mr. Parsons discussed Discovery Builders' interactions with City Staff, the City's recommendation to redesign the western portion of the project, and incorporating flexibility into the projects timing and phasing.
17. Dan Smith - Mr. Smith spoke in opposition of the proposed project.
18. Jon Van Landschoot - Mr. Van Landschoot spoke in opposition of the proposed project.
19. Albert Seeno Jr., Discovery Builders, Inc. - Mr. Seeno discussed the EIR process, conditions of approval, the time Discovery Builders, Inc. has spent trying to get this project going, and his family's reputation and desire to build on their land.
20. Christina Strawbridge - Ms. Strawbridge spoke in favor of the proposed project.

Applicant:

Sal Evola, Discovery Builders, Inc. - Mr. Evola discussed the costs to the City for this project, police and fire, community facility districts (CFD's), his commitment to work with the Economic Development Department to go after users, phasing of the project, Discovery Builder's commitment to deliver a vision for Benicia (R/D, high tech, clean tech, etc.), his meeting with Benicia First, and the three-step process.

Mayor Patterson stated that she appreciated the applicant's comments about flexibility and working with City Staff, etc. She would like to have the Planning Commission review the conditions. Sixty days is very fast to process a project of this size. She asked if there were any objections to having the Planning Commission review the conditions.

Mr. Evola stated that when it was presented to the Planning Commission, he asked them to comment on the conditions. The Planning Commission was there to make recommendations to Council. Staff has had the opportunity to take this back during this timeframe. Nothing has precluded the Planning Commission from submitting comments. When the EIR was certified, he could not commit to the Upland Preservation Alternative because he felt he could come up with a better alternative, which he did – within the timeframe he was tasked with. City Staff has worked diligently on the conditions. He was not amenable to send this back to the Planning Commission. This has been a long process. They look forward to continue working with Staff.

Council Member Schwartzman asked Mr. Evola to look at this from Council's perspective. He discussed the Touro University project on Mare Island, Seeno's reputation, trust, and the issue of a development agreement.

Vice Mayor Campbell and Mr. Evola discussed conditions 98-99, standards for flexibility.

Council Member Hughes asked Mr. Evola which conditions he considered deal breakers. Mr. Evola discussed flexibility to phasing, grading and infrastructure, cost sharing on the CFD (police and fire), and the issue of a revenue sharing agreement being brought forward prior to the recording of the first final map.

Council, Staff, and Mr. Evola discussed the City's position with having a development agreement vs. having agreement on the 200+ project conditions, assurances, clarity, standards of criteria and enforcement, strengthening the assurances portion of this with specific references to standards and criteria in the next staff report, section 91 – page 12 – reference to unfair conditions, how future council's might handle the conditions, how costs for additional police and fire would be handled, community facilities district, the trust factor with regards to Seeno, third party monitor, Seeno paying for a compliance person, reaching a compromise, Council's comfort zone, development agreement, extension of time, circumventing the process, allowing the Planning Commission to weigh in on the process, moving people not automobiles, air quality, climate control, and the need for the project to meet the mandates of AB 32.

Public Comment:

1. Albert Seeno Jr. – Mr. Seeno discussed the issue of his family's reputation and trustworthiness.

Mayor Patterson stated that there would be one more meeting on this issue and it would start at 6:00 p.m. on June 3, 2008. She asked Staff to explain how it would look at each condition that was submitted, how it would be looked at in terms of the subject it relates to, and how it will be dealt with on June 3, 2008.

Staff indicated that it wanted to respond to all comments in an organized fashion. That did not necessarily mean that there would be a written response to every comment made. Staff would rather identify the comments that Council and Staff indicated were very important to address. Many of the comments were satisfied by conditions that already exist.

Mayor Patterson clarified that all she wanted was for the material to be organized. She thought a matrix would work. There needs to be an organized staff report for the June 3, 2008 Council meeting that enables Council and the public to see all of the suggestions. She recognized it was a lot of work. She regrets Council did not have the cooperation of Seeno and Discovery Builders, Inc. in order for it to do what it needs to do to get things done. She requested that outside counsel be present at the June 3, 2008 Council meeting as well as prepare a response in advance regarding the need for a supplemental EIR (as suggested by Benicia First, various Council Members, etc). Ms. McLaughlin suggested it would not be cost effective to have outside counsel sit through another public hearing and she did not think there was sufficient time for them to review tonight's comments before the next agenda was run. Mayor Patterson asked that the question marks about the proposed addendum be summarized.

Council Member Hughes stated that he did not think Council had issues with the majority of the 200+ conditions. He suggested dealing with this on an exception basis.

Mayor Patterson requested having a consideration of condition of approval that the grading be limited to 20% slope as determined by the methodology that was proposed on the zoning discussion that took place a couple of years ago. She heard references to the

great vision of a campus-like idea, but she did not see any reference to campus design elements. She would like to have a condition of approval that actually spells that out i.e. public area, common interconnections, topographical relief elements, and fairly extensive detail for what a campus design is.

Vice Mayor Campbell and Staff discussed putting a penalty in condition 95, condition 216 – he would like it worded differently to deal with monitoring the project before, during and after, conditions 146 and 147 - penalties would be better than assurances or bonds, concerns regarding sufficient water sources for the project, the enforceability of the conditions, coming up with appropriate penalties, and having an oversight committee (as previously suggested by Mr. Craft).

Council Member Ioakimedes disclosed ex-parte communications he had with regards to this item. He discussed concerns he had with conditions 63-78, the language in conditions 172-176 needs to be tightened up, and the language in condition 11 is adequate – although he would like to see it sooner than later.

Mayor Patterson asked Ms. McLaughlin to prepare a summary of the issues that were raised regarding the adequacy of the initial study and the addendum.

Ms. McLaughlin advised all Council Members to disclose any contacts they had during the break or in between Council meetings, in accordance with the rules.

Mayor Patterson clarified that tonight's public hearing would be continued to June 3, 2008. When tonight's meeting is adjourned, it would be adjourned to the June 3, 2008 Council meeting – starting at 6:00 p.m.

On motion of Council Member Hughes, seconded by Council Member Ioakimedes, at 11:15 p.m., Council approved hearing item IX-B, and continuing item IX-A to a future meeting, on roll call by the following vote:

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

Noes: Vice Mayor Campbell

ACTION ITEMS:

Acceptance of the annual report of the Open Government Commission:
Continued

Approval of a Tourism Plan:

Amalia Lorentz, Economic Development Manager, reviewed the staff report.

Dennis Erokan and Irv Hamilton, Placemaking Group, reviewed a presentation on the proposed Tourism Plan (hard copy on file).

Council, Staff, Mr. Erokan, and Mr. Hamilton discussed concerns regarding the logo, having a more traditional waterfront scene logo, coordination and cooperation between the Chamber of Commerce and the City, Waterfront District - reasons for having H Street

being the cutoff, the City of San Clemente, culture commission, music, and a Business Improvement District.

Public Comment:

1. Laurie Key – Ms. Key spoke in favor of the proposed plan. She discussed the green aspect of tourism.
2. Christina Strawbridge – Ms. Strawbridge spoke, in favor of the proposed plan.
3. J.B. Davis – Mr. Davis spoke in favor of the proposed plan.

Council and Staff discussed using the language ‘bay’ vs. ‘strait’, and the cost to implement the plan,

4. Susan Street – Ms. Street discussed the Waterfront Committee and her support for the language ‘a great date on the strait.’
5. Sue Johnson – Ms. Johnson discussed her preference for using language referencing ‘strait’ as opposed to ‘bay.’
6. Marilyn Bardet – Ms. Bardet discussed her preference for using language referencing ‘strait’ as opposed to ‘bay.’
7. Rick Ernst – Mr. Ernst discussed using ‘estuary’, continued emphasis on using locally owned and operated businesses, and his desire for the plan to be dynamic, not static.

Council, Staff, and the consultants discussed spending all the money Council allocated for the budget cycle, website redesign, advertising campaign, designing way-finding signage, having a regular monthly meeting for interested parties, moving towards a new revenue stream or cost sharing where the City is not bearing all the costs for this effort, possibly moving into a convention and visitors bureau model where there could be a third party coordinator, current adequate staffing level, tag line – bay vs. strait, the tagline being a targeted tourism brand – not a new Citywide branding effort, marketing the City’s signature events, and not micromanaging the EDB.

On motion of Council Member Ioakimedes, seconded by Council Member Schwartzman, Council approved the Tourism Branding Plan, on roll call by the following vote:

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

Noes: None

INFORMATIONAL ITEMS:

Reports from the City Manager:

Continued

Mayor’s State of the City Presentation:

Continued

HPRC designation of Residential Property Owner and Residential or Business Property
Owner positions:

Continued

Council Member Committee Reports:

1. Mayor's Committee Meeting - (Mayor Patterson) - Next Meeting Date: May 21, 2008
2. Association of Bay Area Governments (ABAG) - (Mayor Patterson & Vice Mayor Campbell) - Next Meeting Date: To be determined
3. Audit & Finance Committee - (Vice Mayor Campbell & Council Member Schwartzman) - Next Meeting Date: June 6, 2008
4. League of California Cities - (Mayor Patterson & Council Member Schwartzman) - Next Meeting Date: May 21, 2008 – Budget Action Day
5. School Liaison Committee - (Council Members Ioakimedes & Hughes) - Next Meeting Date: June 12, 2008
6. Sky Valley Open Space Committee - (Vice Mayor Campbell & Council Member Ioakimedes) - Next Meeting Date: July 16, 2008
7. Solano EDC Board of Directors - (Mayor Patterson & Council Member Ioakimedes) - Next Meeting Date: May 30, 2008
8. Solano Transportation Authority (STA) - (Mayor Patterson & Council Member Schwartzman) - Next Meeting Date: June 11, 2008
9. Solano Water Authority/Solano County Water Agency - (Mayor Patterson & Vice Mayor Campbell) - Next Meeting Date: June 12, 2008
10. Traffic, Pedestrian and Bicycle Safety Committee - (Vice Mayor Campbell & Council Member Hughes) - Next Meeting Date: July 17, 2008
11. Tri-City and County Regional Parks and Open Space - (Vice Mayor Campbell & Council Member Hughes) - Next Meeting Date: CAC – August 20, 2008; Governing Board – September 8, 2008
12. Valero Community Advisory Panel (CAP) – (Council Member Hughes) - Next Meeting Date: July 23, 2008
13. Youth Action Task Force - (Council Members Ioakimedes & Schwartzman) - Next Meeting Date: May 28, 2008
14. ABAG/CAL FED Task Force/Bay Area Water Forum - (Mayor Patterson) - Next Meeting Date: To be determined

COUNCIL MEMBER REPORTS:

None

ADJOURNMENT:

Mayor Patterson adjourned the meeting to the June 3, 2008 at 12:17 a.m.

Lisa Wolfe, City Clerk