

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
JUNE 3, 2008

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Elizabeth Patterson at 6:00 p.m. on Tuesday, June 3, 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 Schwartzman 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:

Annual Presentation by the Benicia Tula Sister Cities Association:

Ms. Leeann Cawley, President, Benicia Tula Sister Cities Association, reported on the activities of the Benicia Tula Sister Cities Association, including the 2007 Fourth of July Parade, in which the Tula Youth Band participated, the purchase and equipping of a medical van for Tula, and the receipt of a \$5,000 grant from Valero. She introduced the Association's members. She invited the community to join the Association to bid farewell to Mr. Pepe Arteaga as he leaves to deliver the van to Laredo, Texas.

PROCLAMATIONS:

- Recognizing the Reopening of the Benicia State Capitol Building

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). Heather McLaughlin, City Attorney, reviewed the names of the individuals and businesses that submitted written correspondence.

PUBLIC COMMENT:

1. Marilyn Bardet, Benicia First - Ms. Bardet invited Council and citizens to a public forum put on by Benicia First on 6/24/08 at Benicia High School.
2. Vice Mayor Campbell – Vice Mayor Campbell discussed the signature properties in the Sky Valley area. The County is doing a negative declaration as opposed to an EIR. They are glossing over important issues such as water, traffic, cinnabar mines, mercury, etc. He suggested Council consider drafting a letter to request an EIR on the project.

Council and Staff discussed past communications the City has had with the County, including sending a letter, discussing its concerns. Mayor Patterson requested that an addendum be added to the letter including references to cinnabar and mercury.

CONSENT CALENDAR:

Council pulled items VII-B, VII-G, VII-H, and VII-I.

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 May 20, 2008 were approved.

RESOLUTION 08-53 - A RESOLUTION ACCEPTING THE WEST 2ND STREET SEWER IMPROVEMENT PROJECT AS COMPLETE, INCLUDING CHANGE ORDER NOS. 1 THROUGH 11, AUTHORIZING THE CITY MANAGER TO SIGN THE NOTICE OF COMPLETION, AND AUTHORIZING THE CITY CLERK TO FILE SAME WITH THE SOLANO COUNTY RECORDER

Council approved the denial of the claim against the City by Travelers Insurance and referral to insurance carrier.

Council approved the denial of the claim against the City by Terance Keenan and referral to insurance carrier:

Council approved the denial of the claim against the City by Lois Gallo and referral to insurance carrier:

RESOLUTION 08-54 - A RESOLUTION REAPPOINTING TONI HAUGHEY AND LEANN TAAGEPERA TO THE HISTORIC PRESERVATION REVIEW COMMITTEE AS OWNERS OF HISTORIC PROPERTY

Delay of the Biennial Mid-Cycle Budget Adjustments pending State Budget outcome.

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 contracts for construction and construction management/engineering support services for the Civic Center Water Distribution System Upgrade Project:

Council and Staff discussed the issue of a proposed project being able to handle new upgrades in the event a new police station is built, purple pipes, resurfacing the street, striping for parking, and the suggestion to discuss the issue of parking on the street at the next Traffic, Pedestrian and Bicycle Safety Committee meeting.

RESOLUTION 08-55 - A RESOLUTION ACCEPTING THE BIDS FOR THE CIVIC CENTER WATER DISTRIBUTION SYSTEM UPGRADE PROJECT, AWARDING THE CONSTRUCTION CONTRACT INCLUDING BID ALTERNATE TO HUDSON EXCAVATING, INC. IN THE AMOUNT OF \$282,976.25, AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONTRACT 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

RESOLUTION 08-56 - A RESOLUTION APPROVING TASK ORDER NO. 2 IN THE AMOUNT OF \$69,020 WITH PAKPOUR CONSULTING GROUP TO PROVIDE CONSTRUCTION MANAGEMENT/ENGINEERING SERVICES ON THE CIVIC CENTER WATER DISTRIBUTION SYSTEM UPGRADE PROJECT, AND AUTHORIZING THE CITY MANAGER TO SIGN SAID TASK ORDER 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 job descriptions for Police Lieutenant and Police Sergeant:

Council and Staff discussed the current number of sergeants on the police force and the reasons for turnover (retirement).

RESOLUTION 08-57 - A RESOLUTION APPROVING THE JOB DESCRIPTIONS FOR POLICE LIEUTENANT AND POLICE SERGEANT

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

Acceptance of the annual report of the Open Government Commission - Continued from the May 20, 2008 City Council Meeting:

Heather McLaughlin, City Attorney, reviewed the staff report.

Council and Staff discussed the issue of substantial information.

Mayor Patterson requested that the maker of the motion include acknowledgement of all the hard work the Open Government Commission had done.

On motion of Vice Mayor Campbell, seconded by Council Member Ioakimedes, Council accepted the annual report of the Open Government Commission, on roll call by the following vote:

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

Noes: None

Comment on the Draft Environmental Impact Report (DEIR) for the Solano County General Plan:

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

Council and Staff discussed a letter that was sent by the City of Vacaville to Solano County and the issue of sharing tax revenue.

Public Comment:

1. Bob Berman – Mr. Berman reviewed the letter he sent to Council expressing concerns with the DEIR for the Solano County General Plan (hard copy on file).

Council and Mr. Berman discussed Mr. Berman’s professional expertise, zoning, the letter sent to the City by Schute, Mihaly & Weinberger, LLP (copy on file), greenhouse gasses, and how Mr. Berman would grade the plan (mediocre).

2. Marilyn Bardet – Ms. Bardet discussed concerns regarding the DEIR. She believes the letter sent by the City needs to be strengthened.

Council and Staff discussed property tax dollars (approximately \$12 million), dollars the City is giving the County to stay out of the development business, the City’s agreement with the County, the purpose of the agreement, the need to beef up the letter sent by the City to the County with regards to traffic impacts and air quality, making ferry transit a priority, and adding reference to the train to the letter.

On motion of Council Member Schwartzman, seconded by Council Member Ioakimedes, Council directed Staff to draft a letter (with suggested changes) for the Mayor’s signature commenting on the DEIR for the 2008 Solano County General Plan, on roll call by the following vote:

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

Noes: None

PUBLIC HEARINGS:

Public Hearing for City of Benicia Landscaping & Lighting District Fiscal Year 2008-09:

Rob Sousa, Finance Director, reviewed the staff report.

Council and Staff discussed the Fleetside District, public quorum that was held with the members of the Fleetside District, balanced budgets in the five districts, using reserves for the five districts, timeline to go into the public forums, request for recommendations on fee increases, the sense of urgency on the issue, sending notification of upcoming Audit and Finance Committee meetings to the residents in the districts, and the need to educate people in the districts via inexpensive newsletter.

Public Hearing Opened

Public Comment:

None

Public Hearing Closed

RESOLUTION 08-58- A RESOLUTION ORDERING THE MAINTENANCE OF EXISTING IMPROVEMENTS IN ALL FIVE ZONES OF THE DISTRICT, CONFIRMING THE ASSESSMENT DIAGRAM, APPROVING THE ENGINEER'S REPORT AND ORDERING THE LEVY AND COLLECTION OF CERTAIN ASSESSMENTS FOR THE CITY OF BENICIA LANDSCAPING AND LIGHTING DISTRICT, FISCAL YEAR 2008-09

On motion of Vice Mayor Campbell, seconded by Council Member Schwartzman, 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 Hearing for Benicia Business Park Vesting Tentative Map, Master Plan Overlay and Rezoning - Continued from the May 20, 2008 City Council Meeting:

Mayor Patterson reviewed the process for the public hearing.

Ms. McLaughlin addressed the issue of the many items of written correspondence received, the possibility of continuing the meeting (deadline for this item is June 6, 2008), and the notification process for continuing the meeting

Jim Erickson, City Manager, introduced the item.

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

Council and Staff discussed the condition relating to the \$1 million for the Mills Community Center, the conditions of the project being legally binding, what would happen if the applicant were to appeal some of the conditions after the project was approved, what would happen if the courts were to overturn some of the conditions, amending conditions, development agreement, the legal possibility of having the applicant waive its right to appeal the conditions as a condition of approval, economic analysis, how the park and ride would work, economic analysis vs. specific plan, 24-hour onsite security personnel for the proposed project, greenhouse reduction, western commercial area, conformance with LEED ND, campus design, application for vesting tentative map, advantage of a development agreement, what staff would do more of if it had more time – such as getting more detail, making more of nexus, more research on the addendum to beef it up more, staff being wary of not having all its i's dotted and t's crossed, having a draft revenue sharing agreement, and it would have flushed out more detail, having a citizen committee, establishing a grading limit, how much of the site could be developed if there was a 20% slope limit, contour grading, why there is no ability to do a form-based code with the project, condition #23, and how Council should handle the comments the City has received as it relates to the addendum and conditions of approval and the supplemental EIR.

Mayor Patterson requested the public be mindful of the time constraints with this item. She asked they not repeat comments that had already been made. She requested the public address, for her interests the following points if possible: the extent they feel this is

a new project subject to a supplemental EIR, the extent to which it is possible to mitigate for air quality instead of making overriding findings that the air impacts cannot be mitigated, to what extent there is a need – both legally and ethically for Planning Commission Review of the project and the conditions, and insight on the lack of extension of time for the largest project that has come before the City in many decades. Those are not her only concerns, but her major concerns.

Mayor Patterson called for a 5-minute break at 8:17 p.m.
The meeting resumed at 8:25 p.m.

Mayor Patterson stated that the applicant informed her that it did not have a 15-minute presentation prepared. She informed the applicant they could speak during public comment.

Public Hearing Opened

Opponent:

Mr. Jerome Page, Chairman, Benicia First, discussed why Benicia First was formed, its membership, a recent analysis of the project by Steve Goetz, the situation of ‘approve or be sued’, concerns on how the project would affect Benicia, current vs. previous home sale values, the projects lack of coherence and visionary plan, the hundreds of conditions of approval, who will oversee the project in future years, request for Council to deny the proposed project, and the FEIR’s lack of addressing health and safety of children in the community.

Citizens Considering the Consequences (CCC):

Ms. Dana Dean, Attorney representing CCC, discussed a letter she received from the attorney for the applicant regarding her (Ms. Dean’s) written comments that were submitted, the notion that she was trying to delay the process, the need to move forward with something everyone is comfortable with, her attempts to have a respectful dialogue on this process, interpretations of case law, the addendum’s insufficiency, the applicant’s attorney missing the point Ms. Dean was trying to make, the statement of overriding considerations, global warming, and LEEDS ND.

Council, Staff, and Ms. Dean discussed the project’s addendum, the need for a supplemental review for the changes to the project, the adopted EIR not being connected to the current project, lack of a nexus between the project and the EIR, the need for a new traffic analysis, case law relating to similar scenarios, and the lack of analysis for the open waterway.

Ms. Dean clarified that CCC was not opposed to a project. It opposed the particular approvals before Council. The appropriate remedy for the concerns would be a supplemental EIR, opportunity to come up with a development agreement, and to have a respectful dialogue using the appropriate CEQA tools and land use tools, and using the will of the community, applicant, and body to come up with a project that everyone can be proud of.

David Klore, LSA & Associates, discussed why an addendum was an appropriate vehicle to use.

Council and Mr. Klore discussed at what point a new project analysis would need to be done, the broad EIR, the addendum, when a full EIR would need to be done as opposed to an addendum, the transcript of the meeting when the EIR was adopted, the initial study, the addendum, the lack of need for an initial subsequent EIR, Staff's view that the addendum is an appropriate tool, whether the addendum is reflective of Council's intent, Council's expectation (as discussed at the 2/19 Council meeting) that an initial study would be done, letter from the US Department of the Interior, Fish and Wildlife Service, and the three criteria for whether or not a supplemental EIR needs to be done.

Public Comment:

1. Roger Straw – Mr. Straw spoke in opposition of the proposed project. He asked Council to deny the proposed project.
2. Jeanine Seeds – Ms. Seeds spoke in opposition of the proposed project, Seeno being the lessors of the property, and CC&R's.

Council, Staff, and Ms. Seeds discussed the City's ability to enforce CC&R's, consistency, standard of maintenance being included in the CC&R's (as written in the conditions of approval), advantage of a development agreement, and the enforcement mechanisms for CC&R's.

3. Marilyn Bardet – Ms. Bardet spoke in opposition of the proposed project. She discussed air quality and the need for an air quality monitoring program.

Council, Staff, and Ms. Bardet discussed the air quality tests she performed with a professional, the effects the traffic would have on Robert Semple Elementary, monitoring the growth of the project and conditions, project oversight, and the City's need for a specific plan.

4. Nanci Finley – Ms. Finley spoke in opposition of the proposed project.
5. Sue Johnson – Ms. Johnson spoke in opposition of the proposed project. She submitted pictures of Bald Eagles at Lake Herman (copies on file).
6. Harry Newhall – Mr. Newhall spoke in opposition of the proposed project.
7. Gene Doherty – Mr. Doherty spoke in opposition of the proposed project. He discussed ground squirrels and red-legged frogs, commuting concerns, and jobs.
8. Norma Fox – Ms. Fox spoke in opposition of the proposed project. She discussed the project's general plan inconsistencies, concerns with the addendum, concerns regarding condition #11, statement of overriding considerations, and a 2006 citizen's survey regarding air quality.

Council and Staff discussed Ms. Fox's concerns regarding the weak language in condition #11 regarding updating the analysis on traffic and urban decay, economic analysis, evaluation required by General Plan Policy 25 (c) has been satisfied, and what steps could be taken with regards to the final map after the traffic and urban decay analysis is done.

9. Sabina Yates – Ms. Yates spoke in opposition of the proposed project. She discussed concerns regarding a loophole with regards to big box.

- Council and Staff discussed how big box was addressed in the proposed project.
10. Jim Kushera – Mr. Kushera read written comments for Ms. Debbie Todd. He spoke in opposition of the proposed project.
 11. Richard Lubin – Mr. Lubin spoke in opposition of the proposed project.
 12. Rod Cameron – Mr. Cameron spoke in favor of the proposed project.
 13. Bill Cawley – Mr. Cawley spoke in favor of the proposed project.
 14. Keith Dias – Mr. Dias spoke in favor of the proposed project. He wants the project to be LEED certified.
 15. Sue Wickham – Ms. Wickham spoke in opposition of the proposed project. She discussed concerns regarding Silver Creek and Lake Herman Park.
 16. Janice Adams, Superintendent, Benicia Unified School District – Ms. Adams discussed concerns regarding the project with regards to Robert Semple Elementary. She discussed health and safety concerns for the students with regards to the project.
 17. Donald Dean – Mr. Dean discussed a letter sent by the Department of Interior, Fish and Wildlife Service.
 18. Susan Street – Ms. Street spoke in opposition of the proposed project.
 19. Dan Smith – Mr. Smith spoke in opposition to the project.
 20. Elaine Estrada – Ms. Estrada spoke in opposition of the proposed project.
 21. Scott Strawbridge – Mr. Strawbridge spoke in favor of the proposed project.
 22. Jane Vanderwerf – Ms. Vanderwerf spoke in opposition of the proposed project.
 23. Linda Chandler – Ms. Chandler spoke in opposition of the proposed project.
 24. Steve Goetz – Mr. Goetz discussed concerns regarding the environmental findings, mitigation monitoring program, and the need to address all of the environmental impacts. He spoke in opposition of the proposed project.
 25. Susan Shoemaker – Ms. Shoemaker spoke in opposition of the proposed project.
 26. Bob Mutch – Mr. Mutch discussed the proposed project and the fact that there were two voices in town. He hoped Council would make a decision on the project tonight.
 27. Ramon Castellblanch – Mr. Castellblanch spoke in opposition to the proposed project.
 28. JB Davis – Mr. Davis discussed the bicycle plan. He spoke in opposition of the proposed project.
 29. Travis Coley – Mr. Coley spoke in opposition to the proposed project.
 30. Michael Perick – Mr. Perick spoke in favor of the proposed project.
 31. Ed Del Bacarro – Mr. Del Bacarro spoke in favor of the proposed project.
 32. Jim Gilley – Mr. Gilley spoke in favor of the proposed project.
 33. Doug Messner – Mr. Messner spoke in favor of the proposed project.

Mayor Patterson called for a 5-minute break at 11:22 p.m.

The meeting resumed at 11:27 p.m.

Mayor Patterson noted the late hour and the fact that there were still citizens who wished to speak under public comment. She asked Ms. McLaughlin if Council could either close the public hearing or limit the time the remaining speakers wanted to speak. Vice Mayor Campbell indicated that he would not be willing to limit the speaker's time or close the

public hearing until everyone has had a chance to speak. By a show of hands, approximately three citizens indicated they wished to speak.

34. Jon Van Landschoot – Mr. Van Landschoot spoke in opposition of the proposed project.
35. Kristina Lawson, Miller Starr Regalia – Ms. Lawson discussed the letter she sent Council earlier today (copy on file). She discussed case law with regards to the project.

Mayor Patterson discussed concerns regarding Ms. Lawson's comments about late submission of comments by individuals. She (Mayor Patterson) asked Seeno for examples of campus-like developments last August and she just got the list today.

Rebuttal:

Mr. Sal Evola, Discovery Builders – Mr. Evola stated that he agreed with the matrix composed by City Staff in the staff report. He discussed LEED certification, the Fire and Police departments, his client's dedication to building a project that is good for Benicia, their desire to make the project cutting edge, include a web-based carpooling/ridesharing program, reference to silver spot butterfly, Discovery Builder's prior inspection of the site, CEQA, and the time Discovery Builders, Inc. has spent working on the project.

Public Hearing Closed

Council and Staff discussed whether it should proceed until approximately 2:00 a.m. or proceed with the draft resolution denying the project. Council majority agreed to proceed until 1:00 a.m. and see where it was at.

Council Members Schwartzman, Ioakimedes, Patterson, and Campbell disclosed ex-parte communications relating to the project. Council Member Hughes stated that he had not had any ex-parte communications.

Council and Staff discussed whether the addendum was an appropriate vehicle to proceed with the project, supplemental EIR, air quality, transportation, safety and air quality for Robert Semple Elementary students, urban decay, Council's discussion in February not being reflected in LSA's document, how LSA and Staff determined that the addendum, not a supplemental, was the appropriate tool, significant unavoidable air quality impacts, minimizing vehicles miles driven, LSA's level of confidence that it addressed all of the issues in the addendum, how much the project would have to shrink to get the air quality level to 80 pounds per day, the project's square footage (3.1 million total square feet), improving air quality by 30%, new project vs. old project, traffic on East Second Street, figuring out what would be the best project, concerns regarding grading, traffic mitigations, project oversight, LEED ND, three levels of street design in LEED for determining how walkable a site is, the City's obligation under AB 32, findings, agency jurisdiction over air quality, where the intersection is between AB 21 and CEQA, the need for the City to make a difference, common sense and business sense, the need for a supplemental EIR, traffic concerns, traffic analysis, amount of time it would take to do

another traffic study (relatively quick, however it should be done when school is in – school gets out on Friday), future council’s ability to change conditions, the infrastructure being very critical, ways to reduce vehicle miles traveled, having a condition that the developer would agree to having a limit of 50,000 sq. ft., the need for more time to iron out concerns, and a request for a time extension to address concerns.

Mr. Evola stated they could do a 30-day extension to accommodate a traffic study as long as the public hearing remained closed, without additional presentations, for Council to be able to deliberate, and have the traffic consultants present the data from the updated traffic study.

Council and Staff discussed the proposed 30-day extension, not wanting to be caught in a situation where the City is begging and at the last minute get a concession for a 30-day extension, rules for public comment when the item is brought back, traffic study being subject to a public hearing, limiting public comment to the traffic study, Council Member Schwartzman’s absence from the July 1 meeting, extending the 30-day extension to when Council Member Schwartzman returns, the need to do a traffic study during school hours, and time available to do traffic study.

On motion of Council Member Schwartzman, seconded by Council Member Hughes, Council did not agree to a 30-day extension (perhaps more depending on when Council Member Schwartzman returns from vacation) to the July 1, 2008 Council meeting to complete a traffic study (on the areas of East Second Street and below I-780 and the intersections identified earlier by Staff), and then come back and continue the deliberations - limiting public comment to the traffic study, on roll call by the following vote:

Ayes: Council Members Hughes and Schwartzman

Noes: Council Members Campbell, Ioakimedes, and Patterson

Vice Mayor Campbell read the draft copy of the resolution denying the addendum to the EIR (copy on file).

Mr. Erickson stated that Staff strongly recommended against Council rejecting the addendum.

Mr. Evola stated that the applicant would be okay with keeping the public hearing open if that was Council’s desire.

Mayor Patterson discussed the need for the City to have a development agreement and specific plan for the project.

Hughes asked to hear from applicant to find out what they could offer.

Mr. Evola offered a 60-day extension for more time to deliberate with staff and do a traffic study. As far as fully going back to do a specific plan and development agreement - those are two separate issues and that would be taking 10 steps back. He would be

willing to do a 60-day extension to do the traffic, look at air quality, and address project oversight.

Council and Staff discussed the traffic study with regards to school being out of session until August 18, 2008, allowing the Planning Commission to look at the conditions of approval between now and August 18, the intent to have more certainty with the project, having a specific plan, lack of a development agreement, the need to address the traffic study, air quality, and project oversight.

Council Member Ioakimedes discussed his displeasure with the applicant's late offer of an extension. Why didn't they offer the extension earlier? They lost him.

Council discussed using the extension to look at some of Council's other concerns such as grading, development agreement, specific plan, traffic study, urban decay study, and allowing the project to go back to the Planning Commission.

Mr. Evola stated that the applicant could not go back to a development agreement or specific plan. He was okay with doing the traffic study and waiting until school is back in session to do the study and going back to take some more time to deliberate with Staff on some of the other items as indicated by Council Member Schwartzman. Until they know what some of the uses are, it is not the appropriate time to do the urban decay study. The grading plan could not be done until the approved tentative map is done.

Council and Mr. Evola discussed the possibility of using an alternate traffic consultant, doing an estimate on the traffic during school hours, and the lack of accuracy on traffic estimates, and the study not being done until school was back in session.

Council Member Ioakimedes asked if, while the extension was underway, the City could send it back to Planning Commission. Ms. McLaughlin confirmed it could be sent back to the Planning Commission during the extension, as long as the applicant agreed to the extension of October 7th (School is back in session 8/18, the first week of school is minimum days, the study could not be started until the week of 8/25, time needed to compile the traffic study data, and time for Staff and Council to digest the data).

Mr. Evola stated that he was okay with extending the time until the October 7, 2008 Council meeting, unless it could be done sooner via a special meeting. He could not agree to include the grading plan or the specific plan. The applicant would continue deliberating with staff on concerns.

Council discussed sending the project back to the Planning Commission during the extension of time.

On motion of Council Member Hughes, seconded by Council Member Campbell, Council agreed to accept the applicant's extension until the October 7, 2008 Council meeting, have a comprehensive traffic study (including below I-780) conducted between August 25, 2008 and October 7, 2008, bring the traffic study back to Council, conduct the

public hearing with public comment limited to the traffic study, and opening Council's deliberations to the entire project, on roll call by the following vote:

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

Noes: Mayor Patterson

ACTION ITEMS:

None

INFORMATIONAL ITEMS:

Reports from City Manager:

Proposed Mayor's State of the City Presentation on June 10, 2008:

Continued

COUNCIL MEMBER REPORTS:

None

ADJOURNMENT:

Mayor Patterson adjourned the meeting at 2:05 a.m. on 6/4/08.

Lisa Wolfe, City Clerk