

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
June 03, 2014

City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

I. CALL TO ORDER:

Mayor Patterson called the Closed Session to order at 6:35 p.m.

All Council Members were present.

II. CLOSED SESSION:

- A. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Subdivision (a) of Government Code Section 54956.9)
One case: Lewis v. City of Benicia**

III. CONVENE OPEN SESSION:

Mayor Patterson called the Open Session to order at 7:01 p.m.

A. ROLL CALL

All Council Members were present.

B. PLEDGE OF ALLEGIANCE

James Newcomb led the Pledge of Allegiance.

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC.

IV. ANNOUNCEMENTS/PROCLAMATIONS/APPOINTMENTS/PRESENTATIONS:

A. ANNOUNCEMENTS

- 1. Announcement of action taken at Closed Session, if any.**

Mayor Patterson reported that Council received information from Staff and gave direction to Staff.

2. Openings on Boards and Commissions:

Arts and Culture Commission
1 unexpired
1 full term
Open until filled

Historic Preservation Review Commission
1 unexpired term
Open until filled

Economic Development Board
1 unexpired term
Open until filled

3. Mayor's Office Hours:

4. Benicia Arsenal Update

Verbal update from City Attorney

Nothing new to report. Status quo.

B. PROCLAMATIONS

1. IN RECOGNITION OF BENICIA MAKERSPACE

C. APPOINTMENTS

1. Appointment of Alan Nadritch to the Finance Committee for an unexpired term ending July 31, 2015

RESOLUTION 14-48 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF ALAN NADRITCH TO THE FINANCE COMMITTEE FOR AN UNEXPIRED TERM ENDING JULY 31, 2015

On motion of Mayor Patterson Council adopted Resolution 14-48, on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes
Noes: (None)

D. PRESENTATIONS

V. ADOPTION OF AGENDA:

Heather McLaughlin, City Attorney, stated that Staff was requesting that item VIII.B be pulled and continued to a meeting, date to be determined.

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

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes

Noes: (None)

VI. OPPORTUNITY FOR PUBLIC COMMENT:

A. WRITTEN COMMENT

One item (copy on file).

B. PUBLIC COMMENT

1. Tina Marchetti - Ms. Marchetti discussed the progress the Benicia Tree Foundation has made over the past year. She thanked Council and Staff for their support.
2. Constance Beutel - Ms. Beutel discussed upcoming events for the Community Sustainability Commission.

VII. CONSENT CALENDAR:

Council pulled item VII.B for discussion.

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

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes

Noes: (None)

A. APPROVAL OF MINUTES OF THE MAY 20, 2014 CITY COUNCIL MEETING. (City Clerk)

B. DESIGNATION OF LEAGUE OF CALIFORNIA CITIES VOTING DELEGATES AND ALTERNATES

Mayor Patterson stated she pulled this item to encourage one of the other

Council Members to volunteer to be the alternate. She and Staff discussed the upcoming League of California Cities Conference. They discussed the resolution process. They encouraged any other Council Members interested to volunteer to be the alternate, as Mayor Patterson is the delegate. Brad Kilger would be the second alternate.

Council Member Hughes stated he would try to re-arrange his schedule and attend the conference. He then volunteered to be the City's alternate voting delegate for the League of California Cities

On motion of Council Member Schwartzman, seconded by Council Member Strawbridge, Council approved, by motion, the designation of League of California Cities voting delegate (Mayor Patterson), and alternate (Council Member Hughes), on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes
Noes: (None)

- C. DENIAL OF CLAIM AGAINST THE CITY BY TINA MILLER AND REFERRAL TO INSURANCE CARRIER
- D. DENIAL OF CLAIM AGAINST THE CITY BY AARON HOUSTON
- E. DENIAL OF CLAIM AGAINST THE CITY BY FARIDA KANJANI AND REFERRAL TO INSURANCE CARRIER
- F. Approval to waive the reading of all ordinances introduced and adopted pursuant to this agenda.

VIII. BUSINESS ITEMS:

- A. FIRST READING OF AN ORDINANCE AMENDING THE BENICIA MUNICIPAL CODE TO INCORPORATE REGULATIONS TO INCREASE THE PUBLIC NOTICING REQUIREMENT FROM 300 FEET RADIUS TO 500 FEET RADIUS FOR SITE-SPECIFIC PROJECTS INCLUDING AN AMENDMENT OF THE CITY'S CALIFORNIA ENVIRONMENTAL QUALITY ACT ("CEQA") GUIDELINES TO DO THE SAME, AFTER DETERMINATION THAT THE TEXT AMENDMENT IS EXEMPT FROM CEQA

ORDINANCE 14 - AN ORDINANCE AMENDING SECTION 16.04.060 (PUBLIC HEARINGS – NOTICE) OF CHAPTER 16.04 (GENERAL PROVISIONS) OF TITLE 16 (SUBDIVISIONS); SECTION 17.104.040 (NOTICE AND PUBLIC HEARING) OF CHAPTER 17.104 (USE PERMITS AND VARIANCES), SECTION 17.108.080 (NOTICE AND PUBLIC HEARING BY HISTORIC

PRESERVATION REVIEW COMMISSION) OF CHAPTER 17.108 (DESIGN REVIEW), SECTION 17.116.040 (PUBLIC HEARING REQUIRED) OF CHAPTER 17.116 (DEVELOPMENT AGREEMENTS), SECTION 17.120.040 (PUBLIC HEARING SCOPE AND NOTICE) OF CHAPTER 17.120 (AMENDMENTS), ALL WITHIN TITLE 17 (ZONING) OF THE BENICIA MUNICIPAL CODE, TO ESTABLISH A MINIMUM PUBLIC NOTICE RADIUS OF 500 FEET FOR SITE-SPECIFIC PROJECTS

RESOLUTION 14-49 - A RESOLUTION AMENDING THE CITY'S CALIFORNIA ENVIRONMENTAL QUALITY ACT GUIDELINES

Amy Million, Principal Planner, reviewed the staff report.

Council Member Hughes stated he would like to see a way to include notification to tenants.

Vice Mayor Campbell and Staff discussed how the 500 ft. notification came about, and concern regarding possible cost increases for businesses/residences.

Council Member Schwartzman and Staff discussed clarification on the term occupants, including tenants in the notification process, concern regarding how many additional occupants/tenants would have to be included in the notification process.

Mayor Patterson discussed how planners addressed buildings that have common mail boxes, such as apartment complexes, condominiums, etc. by putting a structure at the common mail locations describing the project.

Council Member Strawbridge and Staff discussed involving the title companies in the process, but putting the ownership on the applicant.

Brad Kilger, City Manager, discussed concerns regarding not having enough staff support to handle notification to tenants in buildings such as apartment complexes, condos, etc.

Vice Mayor Campbell and Staff discussed the issue of expanding the notification radius, and who would be responsible for the additional cost.

Public Comment:

1. Gene Pedrotti - Mr. Pedrotti discussed support for including tenants in the notification process. He discussed past issues with lack of notification on parking issues in the Southampton Shopping Center.

Council Member Schwartzman and Mr. Pedrotti discussed the legal requirements for landlords leaving public notifications up.

Vice Mayor Campbell asked Mr. Pedrotti to clarify that he was suggesting the tenant notification was for commercial, not residential (it was).

2. Larry Fullington - Mr. Fullington discussed the importance of notifying stakeholders in all processes.

Council Member Hughes suggested this issue be discussed when the fee study was discussed in the future by Council and Staff. He discussed separating commercial and residential tenant notification.

Mayor Patterson suggested Staff query other municipalities and see how they are handling this issue. She would like the issue of the fees being covered by the applicant addressed when the fee structure is revisited. She would like to honor the Planning Commission's recommendation. She would like Staff to look into how to handle the additional notification so that the tenants and residents are happy.

Mr. Kilger stated that Staff supported maximum notification, but requested Council not take action tonight, and allow Staff to come back with more detailed options on how to deal with notification. He discussed concern regarding the City subsidizing more fees.

Mayor Patterson stated she would like to have this issue resolved by September.

Staff clarified that they supported going from 300 ft. to 500 ft.; however they were concerned with the notification changes and staff time required to handle that.

Council Member Hughes discussed support for including tenants. He supported continuing the item, but having Staff come back with creative ways to handle tenant notification and fees.

Council Member Strawbridge supported continuing this item until more information was available.

Council Member Schwartzman discussed support for continuing this item. He supported increasing the notification from 300-500 ft.; however he would only support notification of tenants if the fees were increased to cover the City's costs.

Vice Mayor Campbell and Staff discussed separating tenants and commercial retailers when addressing the notification issue, and the issue of applicant transfer of costs.

Mayor Patterson stated she was looking for a motion to increase from 300-500 feet, and give direction to Staff to benchmark best practices - including fee structure, notification, residential/commercial, etc. for a future amendment to the ordinance. Staff should report back to Council for a future amendment to the ordinance.

Council Member Schwartzman clarified that the only thing that was being voted on was the 300-500 ft. change, with feedback from Staff to follow.

Council Member Hughes discussed coming up with a creative way to notify

residents and tenants.

Vice Mayor Campbell and Mayor Patterson discussed the six projects that were in the works that this change would affect.

On motion of Council Member Hughes, seconded by Vice Mayor Campbell, Council approved the Introduction and First Reading of the above Ordinance, on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes
Noes: (None)

On motion of Council Member Hughes, seconded by Vice Mayor Campbell, Council adopted Resolution 14-49, on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes
Noes: (None)

B. FIRST READING OF A ZONING ORDINANCE TEXT AMENDMENT TO INCORPORATE REGULATIONS PERTAINING TO MOBILE FOOD VENDING IN THE INDUSTRIAL ZONING DISTRICTS

Public Comment:

None

On motion of Council Member Hughes, seconded by Council Member Strawbridge, Council approved pulling this item and discussing it at a future meeting, date to be determined, on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes
Noes: (None)

C. REVIEW STATUS OF THE BENICIA BALLET THEATRE (BBT) AND BENICIA OLD TOWN THEATRE GROUP (BOTTG) AND APPROVE FUNDING RECOMMENDATIONS FROM THE ARTS AND CULTURE COMMISSION

RESOLUTION 14-50 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING THE AWARD OF ARTS AND CULTURE COMMISSION GRANT FUNDS TO THE BENICIA OLD TOWN THEATRE GROUP

Diane Smikahl, Library Director, reviewed the staff report.

Council Member Hughes discussed BOTTG's longevity and value to the

community. He discussed the confirmation from the State that their non-profit status had been reinstated. He supported going with option #2.

Council Member Schwartzman and Staff discussed the issue of when each of the groups had submitted their requests for reinstatement to the IRS. Benicia Ballet sent their request in before BOTTG. He supported going with option #2.

Public Comment:

1. Dan Clarke, President, BOTTG - Mr. Clarke discussed BOTTG's non-profit status. He hopes to have all issues resolved soon.
2. Margaret Kendrick, Benicia Ballet - Ms. Kendrick discussed Benicia Ballet's non-profit status, and their problems and struggles with the IRS.

Mayor Patterson suggested adding a 'whereas' to the resolution indicating that BOTTG will demonstrate a good faith effort for pursuing IRS certification.

Council Member Strawbridge requested an update on this issue in a few months. She discussed BOTTG's struggles over the past two years. She is hoping this will be resolved in the next few months. She supported option #2, along with adding the Mayor's suggested 'whereas.'

Mayor Patterson recognized Council Member Strawbridge's efforts to help the BOTTG.

IX. ADJOURNMENT:

Mayor Patterson adjourned the meeting at 8:35 p.m.

Lisa Wolfe, City Clerk