

MINUTES OF THE
SPECIAL MEETING – CITY COUNCIL
JUNE 5, 2007

The special meeting of the City Council of the City of Benicia was called to order by Vice Mayor Schwartzman at 6:04 p.m. on Tuesday, June 5, 2007, in the City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

ROLL CALL:

Present: Council Members Hughes, Patterson, Schwartzman, and Whitney

Absent: Mayor Messina (arrived at 6:20 p.m.)

PLEDGE OF ALLEGIANCE:

Vice Mayor 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).

OPPORTUNITY FOR PUBLIC COMMENT:

None

ANNOUNCEMENT OF CLOSED SESSION:

Lisa Wolfe, City Clerk, read the announcement of Closed Session.

CLOSED SESSION:

**A. CONFERENCE WITH LABOR NEGOTIATOR
(Government Code Section 54957.6 (a))**

Agency negotiators: City Manager, Human Resources Director, and Senior HR Analyst

Employee organization: Benicia Dispatchers Association and Senior Management.

**B. CONFERENCE WITH LEGAL COUNSEL –ANTICIPATED LITIGATION
Initiation of litigation pursuant to subdivision (c) of Section 54956.9**

Number of potential case: 1

ADJOURNMENT:

Vice Mayor Schwartzman adjourned the meeting at 6:06 p.m.

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
JUNE 5, 2007

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Steve Messina at 7:00 p.m. on Tuesday, June 5, 2007, in the City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

ROLL CALL:

Present: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina

Absent: None

PLEDGE OF ALLEGIANCE:

Mayor Messina 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:

Action taken at Closed Session:

Ms. McLaughlin reported the following actions:

Item A – Council received information from Staff

Item B - Gave direction to Staff to initiate litigation against Nationwide Auto Auction.

Openings on Boards and Commissions:

- Economic Development Board:
Two full terms to June 30, 2011
- Civil Service Commission:
Two full terms to August 30, 2010
- Board of Library Trustees
One unexpired term to June 30, 2009

APPOINTMENTS:

None

PRESENTATIONS:

Our Solano County Community College Campus

Tony Ubalde, Solano Community College District Governing Board, gave a presentation on ‘Our Solano County Community College Campus.’

PROCLAMATIONS:

- Recognition of Air Force Week – June 4-10, 2007

Vice Mayor Schwartzman asked Staff to confirm how Council was supposed to handle agenda items that are continued when a Council meeting goes past 11:00 p.m. Mr. Erickson discussed the Rules of Procedure that deal with this. Typically, continued items are put on the next agenda. Vice Mayor Schwartzman stated that the Campaign Finance issue was continued at the last Council meeting, but was not on tonight's agenda. He explained that there was another campaign issue that would be on the 6/19 agenda, and it was prudent to continue the campaign finance issue so that the experts would be available for both issues. However, in the future, Council (and interested parties) should be notified when a scheduled item will not be on an agenda.

ADOPTION OF AGENDA:

On motion of Council Member Whitney, seconded by Vice Mayor Schwartzman, the Agenda was adopted as presented, on roll call by the following vote:

Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina
Noes: None

OPPORTUNITY FOR PUBLIC COMMENT:

WRITTEN:

PUBLIC COMMENT:

1. Ann Hansen – Ms. Hansen reported that the Benicia Historical Museum had a successful dedication of its new sign. She discussed the new exhibit at the museum.
2. Council Member Patterson – Council Member Patterson clarified a statement that she made regarding campaign finances with regards to Vice Mayor Schwartzman.

CONSENT CALENDAR:

Council pulled items VII-A, VII-B, and VII-D.

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

Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina
Noes: None

RESOLUTION 07-58 - A RESOLUTION AUTHORIZING THE EXECUTION OF A GRANT AGREEMENT WITH SOLANO COUNTY TO RECEIVE FUNDING FOR THE IMPLEMENTATION OF A COMPREHENSIVE PLAN DEVELOPED BY THE YOUTH ACTION TASK FORCE TO REDUCE THE USE OF ALCOHOL, TOBACCO, AND OTHER DRUGS AMONG CHILDREN, YOUTH AND ADULTS IN BENICIA

RESOLUTION 07-59 - A RESOLUTION APPROVING THE JULY 1, 2006 TO JUNE 30, 2010 AMENDMENTS TO THE LABOR AGREEMENT WITH THE BENICIA DISPATCHERS ASSOCIATION

RESOLUTION 07-60 - A RESOLUTION APPROVING THE JULY 1, 2006 TO JUNE 30, 2010 AMENDMENTS TO THE LABOR AGREEMENT WITH THE BENICIA SENIOR MANAGEMENT GROUP

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 Minutes of May 3, 2007, May 15, 2007, and May 17, 2007

Council Member Patterson reviewed her change requests. Council accepted the changes with the exception of the changes listed on pages VII-A-9 (#2), VII-A-21, and VII-31.

Council gave direction to the City Clerk to review the request, on page VII-A-31 and insert verbatim language.

On motion of Council Member Patterson, seconded by Vice Mayor Schwartzman, the amended minutes of May 2, 2007, May 15, 2007, and May 17, 2007, were approved, on roll call by the following vote:

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

Noes: Council Member Whitney

Second reading of an ordinance to regulate retail businesses larger than 20,000 square feet:

Council Member Patterson pulled this item so Council could take a separate vote on it.

ORDINANCE 07-15 - AN ORDINANCE AMENDING SECTION 17.28.020 (LAND USE REGULATIONS) OF CHAPTER 17.28 (C COMMERCIAL DISTRICTS) AND ADDING SECTION 17.70.360 (RETAIL SALES LARGER THAN 20,000 SQUARE FEET) OF CHAPTER 17.70 (SITE REGULATIONS)

On motion of Council Member Hughes, seconded by Council Member Whitney, the above Ordinance was adopted, on roll call by the following vote:

Ayes: Council Members Hughes, Patterson, Whitney, and Mayor Messina

Noes: Vice Mayor Schwartzman

Approval of a continued funding of the Family Resource Center as part of the Benicia Police Department's Family and Child Resource Services Unit. (Police Chief)

RESOLUTION 07-61 - A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT WITH SOLANO COUNTY TO CONTINUE FUNDING THE FAMILY RESOURCE CENTER (FRC) AS PART OF THE BENICIA POLICE DEPARTMENT'S FAMILY AND CHILDREN RESOURCE SERVICES UNIT

On motion of Council Member Whitney, seconded by Vice Mayor Schwartzman, the above Resolution was adopted, on roll call by the following vote:

Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina

Noes: None

PUBLIC HEARINGS:

Consideration of an extension of the moratorium to regulate billboards:

City Manager Jim Erickson reviewed the staff report.

Mayor Messina, Vice Mayor Schwartzman, and Council Member Whitney disclosed that they had ex parte communications with the applicant.

Public Hearing Opened

Public Comment:

1. Mike McCoy – Mr. McCoy (applicant) discussed the status of the incomplete application. The billboard would not block any views of hills or wetlands. He requested Council's support of the application. He requested it be excluded from the moratorium.
2. Ray Lewis – Mr. Lewis spoke in support of the applicant. The fair and correct thing to do would be to make the application exempt from the moratorium.

Public Hearing Closed

Council decided to extend the moratorium for ten months and 15 days.

Council Member Patterson will forward her comments (previously submitted in an email - hard copy on file) to the Planning Commission for review.

Council gave direction to Staff to address this matter as expeditiously as possible. Mayor Messina suggested having the City Attorney report back to Council on the status in three months.

ORDINANCE 07-16 - AN ORDINANCE TO EXTEND ORDINANCE NO. 07-13, AN URGENCY INTERIM ORDINANCE APPROVING AN INTERIM ZONING MORATORIUM ON THE ESTABLISHMENT OF NEW BILLBOARDS IN THE CITY OF BENICIA AND ADOPTING FINDINGS INCLUDING ENVIRONMENTAL FINDINGS AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN

On motion of Council Member Patterson, seconded by Vice Mayor Schwartzman, the above ordinance was adopted, on roll call, by the following vote:

Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina

Noes: None

Consideration of an extension of the moratorium to regulate adult entertainment businesses:

Heather McLaughlin, City Attorney, reviewed the staff report.

Public Hearing Opened

Public Hearing Closed

ORDINANCE 07-17 - AN URGENCY INTERIM ORDINANCE APPROVING AN INTERIM ZONING MORATORIUM ON THE ESTABLISHMENT OF NEW ADULT ENTERTAINMENT BUSINESSES IN THE CITY OF BENICIA AND ADOPTING FINDINGS INCLUDING ENVIRONMENTAL FINDINGS AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN

On motion of Council Member Whitney, seconded by Vice Mayor Schwartzman, the above ordinance was adopted, on roll call, by the following vote:

Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina

Noes: None

ACTION ITEMS:

Request to consider placement of a ballot measure to amend the utility users tax - Continued from May 15, 2007 City Council Meeting:

Jim Erickson, City Manager, reviewed the staff report.

Council discussed issues such as the cost and timing of placing a measure on the November ballot versus using a mail-in ballot.

On motion of Council Member Whitney, seconded by Council Member Hughes, Council gave direction to Staff to come back to Council with its recommendation on placing a measure on the November ballot, on roll call by the following vote:

Ayes: Council Members Hughes, Patterson, Schwartzman, Whitney, and Mayor Messina

Noes: None

Consideration of an ordinance clarifying the scope of design review authority:

Heather McLaughlin, City Attorney, reviewed the Staff report.

Mr. Knox would prefer to remove the words setback and landscaping from the proposed language. If the proposed ordinance moves forward, it could impact the CLG status.

Public Comment:

1. Leann Taagepera – Ms. Taagepera spoke in opposition of the proposed ordinance. She reviewed the letter she sent to Council regarding this issue (hard copy on file).
2. Donnell Rubay – Ms. Rubay spoke in opposition of the proposed ordinance. She referenced a letter she sent to Council regarding this issue (hard copy on file).

3. Mike Ioakimedes – Mr. Ioakimedes suggested Council look at how this would affect the existing Historic Districts as well as other areas of the City it would affect. There needs to be better language that deals with setbacks.

Mr. Knox felt that the Downtown Mixed Use Master Plan would resolve a lot of the issues that have been raised by the public and Council.

After Council discussion, Mayor Messina suggested cutting this item off to give Staff time to digest what needed to be done once the Downtown Mixed Use Master Plan is implemented. It could be brought back for discussion (if needed) after that.

Mayor Messina called for a 5-minute break at 9:40 p.m.
The meeting resumed at 9:46 p.m.

Viability of City of Benicia/Valero Water Reuse Project:

Dan Schiada, Public Works Director, reviewed the staff report.

Mayor Messina clarified that the recommendation from the PURE Committee is for the City to continue with the steps to keep the project ‘shelf-ready.’

Bob Craft, PURE Committee, reviewed the committee’s recommendations: The committee recommended the project (and the PURE Committee as a result) be discontinued due to costs. The committee recommended asking Valero to support some other high priority community project as a good will gesture. He urged Council to take action on both recommendations.

Guy Young, Valero, reviewed the recommendations. He disagreed with the recommendation of taking the next step from having a conceptual design report to preliminary design review document. He reviewed the changes Valero had made that reduced the amount of water use.

Council agreed it wanted Valero to proceed with the preliminary design review document.

Public Comment:

Dana Dean – Ms. Dean discussed the VIP agreement. She supported having the document as ‘shelf-ready.’ She asked Staff to track potential opportunities. She suggested having PURE morph into another entity. She asked that the CAP look at recommendations for contributions Valero could make to the community with regards to water reuse. She has not yet reviewed the new conditions in depth. Some faction of the Good Neighbor Steering Committee should remain involved with a reconstituted PURE or CAP.

Mayor Messina stated that the study needed to be completed and be in a ‘shelf-ready’ situation. The City should look to the CAP to continue the process. The City would

continue to talk with Valero. The members of the community need to remain engaged. The CAP should look at membership and possibly include some members of PURE.

Mr. Young confirmed Valero would put forth the money to go from conceptual design to preliminary design, with the caveat that there are nominal additional charges associated with updating the CEQA Administrative graph.

Council discussed the issue of revising the CAP membership and representation. Council Member Hughes suggested putting the issue on the CAP's next agenda for discussion. He would report back to Council after the CAP discusses the issue.

INFORMATIONAL ITEMS:

Reports from the City Manager:

None

COMMENTS FROM COUNCIL MEMBERS:

None

ADJOURNMENT:

Mayor Messina adjourned the meeting at 10:38 p.m.

Lisa Wolfe, City Clerk