

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
June 07, 2011

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 meeting to order at 7:01 p.m.

II. CLOSED SESSION:

III. CONVENE OPEN SESSION:

A. ROLL CALL

All Council Members were present.

B. PLEDGE OF ALLEGIANCE

Chief Bidou led the Pledge of Allegiance.

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC.

IV. ANNOUNCEMENTS/APPOINTMENTS/PROCLAMATIONS/PRESENTATIONS:

A. ANNOUNCEMENTS

Mayor Patterson acknowledged Council Member Ioakimedes' recent decision not to seek re-election. She thanked Council Member Ioakimedes for his contributions and efforts.

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

Ms. McLaughlin reported that Council received information from Staff.

2. Openings on Boards and Commissions:

3. Mayor's Office Hours:

4. Benicia Arsenal Update:

Mayor Patterson reviewed the updates listed in the staff report.

B. APPOINTMENTS

1. **Appointment of Joe Muehlbauer as a representative from Valero to the Benicia Community Sustainability Commission for a four year term expiring June 1, 2015.**

RESOLUTION 11-63 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF JOE MUEHLBAUER, REPRESENTING VALERO, TO THE BENICIA COMMUNITY SUSTAINABILITY COMMISSION FOR A FOUR-YEAR TERM EXPIRING JUNE 1, 2015

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

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

C. PROCLAMATIONS

D. PRESENTATIONS

V. ADOPTION OF AGENDA:

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

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

VI. OPPORTUNITY FOR PUBLIC COMMENT:

A. WRITTEN COMMENT

Mayor Patterson reviewed the written comments submitted (copies on file).

B. PUBLIC COMMENT:

Sharon Petrellesse - Ms. Petrellesse discussed recent articles published regarding the Human Services Board and funding. She clarified that all meetings were open to the public. She announced upcoming fundraising events.

Christina Strawbridge - Ms. Strawbridge announced the recent success of the Sunset Celebration event.

VII. CONSENT CALENDAR:

Council pulled items VII.A, VII.B, and VII.C for discussion.

On motion of Council Member Hughes, seconded by Vice Mayor Schwartzman,

Council approved the Consent Calendar, as amended, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

A. APPROVAL OF MINUTES OF THE MAY 3, 2011 REGULAR MEETING, THE SPECIAL AND REGULAR MEETINGS OF MAY 17, 2011, THE SPECIAL MEETING OF MAY 19, 2011 AND THE MAY 24, 2011 SPECIAL MEETING

Mayor Patterson reviewed her suggested changes (copy on file).

Council Member Hughes did not feel all the requested changes were substantive, however, he was fine with the changes.

Vice Mayor Schwartzman only wanted the changes regarding Mr. Smith's comment and the SID clarification made. He did not agree with the other two changes.

Public Comment:

None

On motion of Council Member Hughes, seconded by Council Member Campbell, Council approved the minutes, as amended, on roll call by the following vote:

Ayes: Patterson, Campbell, Hughes, loakimedes

Noes: Schwartzman

B. AWARD OF CONSTRUCTION CONTRACT FOR LAKE HERMAN RAW WATER TRANSMISSION LINE CATHODIC PROTECTION SYSTEM REHABILITATION PROJECT

RESOLUTION 11-64 - A RESOLUTION ACCEPTING THE BIDS FOR THE LAKE HERMAN RAW WATER TRANSMISSION LINE CATHODIC PROTECTION SYSTEM REHABILITATION PROJECT, AWARDED THE CONSTRUCTION CONTRACT TO FARWEST CORROSION CONTROL COMPANY OF HAYWARD, IN THE AMOUNT OF \$109,910, AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONSTRUCTION CONTRACT ON BEHALF OF THE CITY

Council Member loakimedes asked Staff to clarify the 'three known firms' that were referenced in the staff report. It was not that there were only three firms out there, but it was that Staff was familiar with the three firms.

Public Comment:

None

On motion of Council Member loakimedes, seconded by Vice Mayor

Schwartzman, Council adopted the Resolution, on roll call by the following vote:
Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes
Noes: (None)

C. APPROVAL OF PLACARDS FOR THE BIKE RACKS INSTALLED PURSUANT TO THE VALERO/GOOD NEIGHBOR STEERING COMMITTEE AGREEMENT

Mayor Patterson requested Staff clarify the chronology of events regarding the placards.

Ms. McLaughlin reviewed the cost, history of the VIP Agreement, and original intent of the Good Neighbor Steering Committee regarding the placards.

Mayor Patterson disclosed exparte communications regarding this issue.

Council Member loakimedes recognized all of the positive benefits of the VIP Agreement. There needs to be a way to celebrate the agreement, and all the positive benefits it provides.

Council Member Campbell acknowledged Ms. McLaughlin's efforts with the VIP Agreement.

Public Comment:

Mary Frances Kelly Poh - Ms. Kelly Poh noted that the acoustics in the audience made it difficult to hear Council. She discussed the history and actions of the Good Neighbor Steering Committee. She acknowledged Ms. Dean's efforts on the committee.

On motion of Council Member Hughes, seconded by Council Member loakimedes, Council approved, by motion, the placards for the bike racks installed pursuant to the Valero/Good Neighbor Steering committee Agreement, on roll call by the following vote:

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

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

VIII. BUSINESS ITEMS:

A. REDUCTION IN COMPENSATION PACKAGE FOR CITY MANAGER AND CITY ATTORNEY.

RESOLUTION 11-65 - A RESOLUTION APPROVING AMENDMENTS TO THE EMPLOYMENT AGREEMENT WITH THE CITY MANAGER AND THE CITY

ATTORNEY

Brad Kilger, City Manager, reviewed the staff report.

Council Member Campbell and Staff discussed what PERS might do in the future, in light of a possible double-dip recession. Staff anticipated a fairly stable future with PERS.

Vice Mayor Schwartzman commended Staff for stepping up with the leadership and reductions. He discussed the poor economy and poor home sales. The recession would probably go on longer than anyone thinks. He would like to volunteer to discuss the issue of his council compensation at some point in the future.

Mr. Kilger acknowledged that the proposed cuts were a good first step. Hopefully there would not need to be another step taken, but if there is, Staff would continue discussion on the issue.

Council Member Hughes discussed the proposed cuts, and previous decisions made regarding the \$1.7 million budget gap.

Mayor Patterson thanked Staff for their leadership on the issue. She acknowledged Council's hard work on the budget.

Public Comment:

Larry Fullington - Mr. Fullington cautioned Council not to address the City Council salaries, as it is such a small amount.

End of Public Comment

Council Member loakimedes discussed his lack of support for the proposed approach. He discussed concern regarding the practice of comparative salary analysis, the issue of add pays, and putting the budget cuts on the backs of the rank-and-file.

Mayor Patterson discussed the financial institution's responsibility in the current recession. The City has to provide services to the community.

Council Member Hughes respectfully disagreed with Council Member loakimedes' comments. He discussed the issue of market surveys and salary analysis. He discussed the need to see how the City could be more creative in the future. The City needs more facts and information before it could change the procedures.

Mayor Patterson stated she would re-open the public comment so people could speak on the comments Council made after public comment had closed, as

important comments had been made.

Vice Mayor Schwartzman discussed how long it had taken to get to the City's current pay structure. The City needs to be fair to both the employees and citizens.

Council Member Ioakimedes discussed concern regarding the City's salary and retirement structure.

Mayor Patterson cautioned Council about going into too much detail, as negotiations were ongoing.

Public Comment:

None

Mayor Patterson clarified Council's direction to Staff was to consider bring back, for discussion, the voluntary Council reduction that was discussed.

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

Ayes: Patterson, Schwartzman, Campbell, Hughes

Noes: Ioakimedes

B. APPROVE AN AMENDMENT TO THE JULY 1, 2010 TO JUNE 30, 2012 AGREEMENT BETWEEN THE CITY OF BENICIA AND SENIOR MANAGEMENT EMPLOYEES

RESOLUTION 11-66 - A RESOLUTION APPROVING AN AMENDMENT TO THE JULY 1, 2010 TO JUNE 30, 2012 AGREEMENT WITH THE BENICIA SENIOR MANAGEMENT EMPLOYEES

Brad Kilger, City Manager, reviewed the staff report.

Vice Mayor Schwartzman acknowledged the employee's dedication and loyalty to the City.

Public Comment:

None

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

Ayes: Patterson, Schwartzman, Campbell, Hughes

Noes: Ioakimedes

C. PUBLIC HEARING FOR CITY OF BENICIA LANDSCAPING AND LIGHTING DISTRICT FISCAL YEAR 2011-12

RESOLUTION 11-67 - 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 2011-12

Rob Sousa, Finance Director, reviewed the staff report.

Mayor Patterson and Staff discussed the standard way of getting an assessment changed without going into a deficit. Mayor Patterson would like to see Council join her in a direction to staff to begin thinking about how to go into this, and what approach would work, as the standard approach won't be sufficient in these extremely difficult financial times, and with people's (both residential and commercial) added burdens with the economy.

Council Member Ioakimedes and Staff discussed the need for property owners to know how efficiency has improved (lighting, water, etc.).

Council Member Hughes discussed the need to for the property owners to be aware of what they are getting out of the assessments. The City needs to develop a new, creative way to reach out to the property owners.

Vice Mayor Schwartzman discussed the need for outgoing staff to institutionalize their knowledge on the issue before they leave.

Council Member Campbell and Staff discussed how difficult it would be to get fee increases approved. Council Member Campbell wanted to know what would be done to maintain the areas after the money is not there. Staff discussed what had been done to improve the areas and save money (draught tolerant plants, lighting efficiencies, etc). Staff discussed the issue of outsourcing, expanding the assessments, and how the City would have to 'sell' the issues to the residents.

Mayor Patterson suggested Staff consider illustrating the savings to the residents. She suggested Staff consider having a contest where residents adopt a median. Staff should work with the community so they understand the situation. The City needs to have an approach or plan to move forward. Mayor Patterson discussed involving BUSD in the plan.

Mr. Kilger discussed the need for Staff and Council to come up with a game plan regarding this issue.

Council Member Campbell and Staff discussed the vote that would be required for a fee increase. Staff clarified that it involves Prop 218, and would be an all

mail ballot.

Public Comment:

None

Council Member Campbell discussed the need to start setting up a strategy for worst-case scenario. He would like a date when staff will report back on the issue.

Mayor Patterson gave direction to Staff to get this on the policy calendar, and to start scheduling the process.

D. AWARD OF CONTRACTS FOR CLEARWELL COATING IMPROVEMENT PROJECT

RESOLUTION 11-68 - A RESOLUTION ACCEPTING THE BIDS FOR THE CLEARWELL COATING IMPROVEMENT PROJECT, REJECTING THE BID PROTEST, AND AWARDING THE CONSTRUCTION CONTRACT FOR THE CLEARWELL COATING IMPROVEMENT PROJECT TO SPIESS CONSTRUCTION COMPANY INC. OF SANTA MARIA, IN THE AMOUNT OF \$609,100; APPROVING A CONTRACT FOR CONSTRUCTION MANAGEMENT/ENGINEERING SUPPORT SERVICES FOR THE CLEARWELL COATING IMPROVEMENT PROJECT WITH CAMP DRESSER & MCKEE, INC. FOR A NOT-TO-EXCEED COST OF \$79,820; AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONTRACTS ON BEHALF OF THE CITY

Melissa Morton, Interim Assistant Public Works Director, reviewed the staff report.

Council Member loakimedes and Staff discussed whether the tank could be coated again in the future (Staff didn't think it would be necessary), and whether the coating degraded the original integrity of the tank (not anticipated).

Vice Mayor Schwartzman and Staff discussed how long the coating would last (ten years), and whether the tank would need to be replaced (expected to last until 2050).

Council Member Hughes and Staff discussed when the leaking bag liner began leaking (2006), coating warranty, alternatives, how much a new bag liner would cost (Staff did not know the cost).

Public Comment:

None

Council Member loakimedes and Staff discussed the bid protest.

Council Member Campbell and Staff discussed the definition of 'work' as listed in the contract.

On motion of Council Member loakimedes, seconded by Vice Mayor Schwartzman, Council adopted the Resolution, on roll call by the following vote:
Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes
Noes: (None)

E. THE OFFICE OF THE CITY TREASURER AND WHETHER THE POSITION SHOULD BE ELECTED AND/OR HAVE A STIPEND AND BENEFITS AND, IF DESIRED, PROVIDING RESOLUTIONS TO CALL THE ELECTION AND PLACE A BALLOT MEASURE TO MAKE THE POSITION APPOINTIVE

Heather McLaughlin, City Attorney, reviewed the staff report.

Council Member Hughes agreed it should be an elected position. He discussed concern regarding eliminating the stipend and benefits of one position (when there are six other elected positions), the need to hear from the FAB how a skilled City Treasurer would compliment their actions, and the responsibilities of the city treasurer.

Council Member loakimedes discussed how a skilled person could contribute to the City. He discussed how the City allowed the position to deteriorate. He would like to have a treasurer who would be able to provide a second opinion. He felt Mrs. Bidou could have contributed more if she was allowed to.

Council Member Campbell discussed Ms. Bidou and Ms. Davena's contributions as City Treasurers. If someone is being paid, they should show up and attend, which they did/do. He agreed that the position should be elected, but not receive compensation.

Public Comment:

Bob Langston - Mr. Langston spoke in support of keeping the position as elected. He suggested keeping the stipend in place, but removing the benefits. He suggested redefining the position and duties of the treasurer.

Mayor Patterson requested Staff look into the issue of attendance, and if there were any actions that could be taken if they did not attend scheduled meetings.

Dennis Lowry - Mr. Lowry discussed the need to define the scope and responsibilities of the position so that qualified candidates would run for office. He spoke in support of keeping the position as an elected position.

Council Member Hughes and Mr. Lowry discussed the issue of the stipend and

benefits. Mr. Lowry felt there was a need for a stipend (to be determined by Council) to make it a meaningful job.

Council Member Campbell and Mr. Lowry discussed how to ensure the person elected attended the meetings.

Larry Fullington - Mr. Fullington spoke in support of the proposed ordinance. He suggested adding 'or someone else appointed by the City Council' after City Clerk. He spoke in support of eliminating the stipend and benefits for the position.

End of Public Comment

Mr. Sousa discussed the lack of need for a city treasurer.

Vice Mayor Schwartzman and Staff discussed what the state and county treasurers' responsibilities were. He discussed the need for independent oversight. He suggested having a two-year trial period, and possibly tying compensation to the attendance.

Council Member loakimedes discussed the benefit of having someone who provides independent oversight.

Council Member Hughes disclosed exparte communications. He suggested the position remain elected, receive a modest stipend, Council could revisit the issue of benefits, and have the FAB review the existing roles and responsibilities that would compliment what the City and FAB does.

Council Member Campbell supported keeping the position as elected, eliminating the stipend and benefits, and possibly reconsidering the stipend and benefits issue.

Mayor Patterson supported keeping the position as elected (to avoid cost ballot measure), developing duties of the treasurer with the Finance Director and the FAB, sending the ordinance back to be re-worked, having a straight stipend (possibly having it as the stipend as actual expenses incurred), close scrutiny of the benefits, having the ordinance reflect a real and fair and benefits for the position, having the ordinance reflect the issue of attendance, and require the city treasurer submit reports to Council.

Ms. McLaughlin and Mayor Patterson discussed the issue of salary and benefits. She clarified that if a treasurer were elected, it would be to a four-year term.

Mayor Patterson gave direction to Staff to come back with an ordinance reflecting Council's comments.

Council Member Campbell would like to see the ordinance address that the

treasurer would not get paid until they prove they are doing the job.

F. REVIEW OF PROPOSED APPROACH FOR STAFF REPORTS REQUESTING USE OF OUTSIDE CONSULTANTS

Anne Cardwell, Administrative Services Director, reviewed the staff report.

Council Member Hughes and Staff discussed the three classes listed in the staff report (it did not have to meet all three classes).

Mayor Patterson suggested adding language to Class 1, after (usually temporary), or an extension of staff due to special project requiring dedication of time.'

Council Member loakimedes and Staff discussed the issue of 'contract staff.'

Vice Mayor Schwartzman and staff discussed the need for an annual report on who was used and the dollars spent per class.

Council Member Hughes discussed the need to maintain flexibility. He and Mayor Patterson suggested having a Class 4 to list 'any other reason', which would provide the flexibility.

Ms. McLaughlin and Council discussed the issue of consultants who don't come before Council.

Council Member Hughes stressed the importance of making the report simple.

Public Comment:

Dennis Lowry - Mr. Lowry discussed the IRS guidelines used for consultants and contractors and employees.

On motion of Vice Mayor Schwartzman, seconded by Council Member Hughes, Council approved the approach for staff reports requesting use of outside consultants, as amended, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Hughes, loakimedes

Noes: Campbell

G. LOCAL VENDOR NOTIFICATION AND PREFERENCE POLICY

Brad Kilger, City Manager, reviewed the staff report.

Council Member loakimedes and Staff discussed the need for Council to be able to understand the nuances of situations where local vendors are not able to meet the regulatory requirements of the projects.

Council Member Hughes and Staff discussed whether the City knew every

product/service the businesses in the City provide. That would be good information to know.

Mayor Patterson discussed the suggestion that when business licenses are renewed, the business could sign up for the bidder notifications. She suggested Staff bring a resolution back possibly like the policy adopted by STA and the County, regarding the commitment to reach out to the community.

Vice Mayor Schwartzman discussed the 'nature of your business' section that is listed on the business licenses. The information is not tracked.

IX. ADJOURNMENT:

Mayor Patterson adjourned the meeting at 10:25 p.m.

Lisa Wolfe, City Clerk