

MINUTES OF THE  
REGULAR MEETING – CITY COUNCIL  
JUNE 16, 2009

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, June 16, 2009, 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:

Dan Schiada 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
  - One full term to January 31, 2013
- ❑ Parks, Recreation and Cemetery Commission:
  - One unexpired term to March 31, 2010
- ❑ Open Government Commission:
  - One unexpired term to November 30, 2010
- ❑ Benicia Housing Authority Board of Commissioners
  - One full term to July 31, 2013
- ❑ Library Board of Trustees
  - One full term to July 31, 2012
- ❑ Historic Preservation Review Commission
  - Two full terms to July 31, 2013
- ❑ Human Services & Arts Board
  - Three full terms to July 31, 2013

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 746-4200.

APPOINTMENTS:

None

PRESENTATIONS:

None

PROCLAMATIONS:

- Recognition of Shop Benicia First Program
- Recognition of Craig Snider as Solano County's Bicycle Commuter of the Year

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:

One item received (copy on file).

PUBLIC COMMENT:

1. Kimble Goodman – Mr. Goodman discussed the upcoming Benicia Town Race bicycle race that will be held on 6/27/09 from 7:45 a.m.-5:00 p.m.
2. Gene Doherty – Mr. Doherty discussed the proposed State Park closures, potential solutions (vehicle license fee increase/tax), and an upcoming rally in support of the State Parks.
3. Jon Van Landschoot – Mr. Van Landschoot requested item VII-D be pulled for discussion.

CONSENT CALENDAR:

Council pulled items VII-A, VII-D, VII-J, and VII-K.

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

Council approved the denial of the claim against the City by Jonathan Lamet and referral to insurance carrier.

RESOLUTION 09-52 - A RESOLUTION ACCEPTING THE PROPOSAL FOR  
LEGAL PUBLICATIONS FROM THE BENICIA HERALD, AWARDING THE  
CONTRACT FOR FISCAL YEARS 2009/2010, AND AUTHORIZING MAYOR AND  
CITY CLERK TO EXECUTE SAID AGREEMENT

RESOLUTION 09-53 - A RESOLUTION ACCEPTING BIDS AND AWARDING CONTRACTS TO THE LOWEST RESPONSIBLE BIDDERS TO FURNISH CHEMICALS FOR WATER TREATMENT AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACTS ON BEHALF OF THE CITY

RESOLUTION 09-54 - A RESOLUTION REQUESTING FROM THE CALIFORNIA DEPARTMENT OF FINANCE A DISBURSEMENT OF PROPOSITION 1B BOND FUNDING FOR THE 2009 CITYWIDE STREET RESURFACING PROJECT AND AUTHORIZING THE DIRECTOR OF PUBLIC WORKS TO SUBMIT THE APPLICATION ON BEHALF OF THE CITY

RESOLUTION 09-55- A RESOLUTION APPROVING THE ACCEPTANCE OF THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT FOR THE PURCHASE OF IN-CAR COMPUTERS

RESOLUTION 09-56 - A RESOLUTION AUTHORIZING THE PURCHASE AND PLACEMENT OF A NEW RESTROOM FACILITY FOR JACK LONDON PARK IN THE AMOUNT OF \$150,796 ALLOCATED FROM THE FACILITY AND MAINTENANCE FUND

RESOLUTION 09-57 - A RESOLUTION SUPPORTING THE SAVE OUR STATE PARKS CAMPAIGN

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 June 1, 2009 and June 2, 2009. (City Clerk)

Mayor Patterson stated that she was out of town and did not have a chance to review the minutes. She asked that both sets of minutes be continued so that she would be able to review them.

Council Member Hughes stated that he would not be able to vote on the minutes of June 2, 2009, as he did not attend the meeting.

On motion of Council Member Schwartzman, seconded by Council Member Ioakimedes, the Minutes of June 1, 2009 were continued to the next Council meeting, 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 Ioakimedes, the Minutes of June 2, 2009 were continued to the next Council meeting, on roll call by the following vote:

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

Noes: None

Abstain: Council Member Hughes

Second reading of campaign ordinance regarding contribution and voluntary spending limits:

Council Member Hughes asked for clarification on the expenditure limit vs. total contribution limits, non-monetary contributions, and how auction items would be handled (as contributions).

Council and Staff discussed the issue of the value of auction items as contributions.

Council Member Hughes asked for clarification on the City sponsored debates and who would decide which questions would be asked (the same approach used by the Chamber of Commerce or something similar to what is used by the League of Women Voters).

Public Comment:

1. Jon Van Landschoot – Mr. Van Landschoot discussed a recent Supreme Court case regarding elections, contributions, and recusal.
2. Dan Smith – Mr. Smith discussed past elections and the amounts of monies that were raised.
3. Susan Street – Ms. Street discussed the issue of candidate debates.

Vice Mayor Campbell thanked the citizens who helped him with the initiative process. He has collected more than 1,600 signatures for the petition. He thanked Council Member Ioakimedes for his assistance in the process.

ORDINANCE 09-12 - AN ORDINANCE ADDING A NEW CHAPTER 1.42 (CONTRIBUTION AND VOLUNTARY SPENDING LIMITS) OF TITLE 1 (GENERAL PROVISIONS) OF THE BENICIA MUNICIPAL CODE

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

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

Noes: None

Resolution providing for and requesting the Board of Supervisors permit the Registrar of Voters to provide specified services in connection with the General Municipal Election to be held November 3, 2009:

Mayor Patterson discussed concerns regarding the cost of the elections.

Lisa Wolfe, City Clerk, discussed the reasons for the high cost of the election. There is currently no State sponsored items on the ballot, and therefore the State will not be sharing the cost of the election.

Mayor Patterson discussed the possibility of changing City elections to even year elections to lower the costs. She would like the issue agendized at a future meeting.

RESOLUTION 09-58 - A RESOLUTION PROVIDING FOR AND REQUESTING THE BOARD OF SUPERVISORS TO PERMIT THE GENERAL MUNICIPAL ELECTION TO BE HELD NOVEMBER 3, 2009

On motion of Council Member Hughes, 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

Resolution calling for the Consolidated Districts Election November 3, 2009 and fees related to that election:

Ms. Wolfe clarified that the language in the Resolution should refer to the General Municipal Election rather than the Consolidated Districts Election.

RESOLUTION 09-59 - A RESOLUTION CALLING AND GIVING NOTICE OF THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2009, FOR THE ELECTION OF CITY COUNCIL MEMBERS (2) FOR THE CITY AS REQUIRED BY THE PROVISIONS OF THE LAWS OF THE STATE OF CALIFORNIA RELATING TO GENERAL LAW CITIES AND WAIVING THE FEES FOR CANDIDATES

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

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

Noes: None

PUBLIC HEARINGS:

Downtown Historic District Overlay Boundary:

Gina Eleccion, Management Analyst, reviewed the staff report.

Council and Staff discussed the boundary regarding 410 and 420 West K Street, the issue of fairness, where the district begins and ends, concentration of properties within the district, why a property on the 400 block was not included in the district (question regarding age and integrity of structure), why the district would not be extended to the end of the 400 block of West K Street, the need for a historic context.

Bonnie Silveria, Past President, Benicia Historical Society, discussed the survey process, the ad-hoc committee that was formed, the reason for the gap on K Street a property on West Third Street, and the need for leeway to finish what the committee was working on.

Vice Mayor Campbell and Staff discussed the properties at 410 and 420 West K Street, homes that appeared to have modifications, and the arbitrariness of the selection process.

Council Member Hughes discussed various properties on West J Street and West K Street.

Public Comment:

1. Phyllis Hartzell – Ms. Hartzell discussed her property at 420 West K Street, the inconsistent boundaries in the Historic District, moving the boundary to exclude 410 and 420 West K Street. She provided dates when various houses on West K Street were built.
2. Citizen – The citizen was speaking on behalf of Mona Small. He discussed concerns regarding Ms. Small’s property at 410 West K Street. Ms. Small would like it removed from the list.
3. Citizen – the citizen spoke on behalf of Mona Small. She discussed concern regarding certain properties being included.

Staff and Council discussed the property at 385 West K Street, the historic integrity of 410 and 420 West K Street, ‘thumb sticking out’ context of the boundary, balancing out the responsibility of protecting all resources vs. moving the boundary to protect certain homes, findings for hardship (currently there are no such findings), the steps that would need to be taken to delist 410 and 420 West K Street, how people can accommodate the lifestyle of today with the small homes, benefits of expanding the district to cover the entire 400 block of West K, how the City could afford the protection that the historic structures need with review, keeping the integrity of the streetscape, the need to get through the historic context, who would pay for the CEQA document if this issue were reconsidered (could be done in-house).

Council Member Schwartzman disclosed ex parte communications. He discussed Council’s ability to make a decision on this (It could either approve the boundary or send it back to HPRC).

Council Member Ioakimedes disclosed ex parte communications. He discussed having this go back to the HPRC, the arbitrary boundary, and the need to focus as much on the neighborhoods as on the buildings.

Vice Mayor Campbell discussed the arbitrary boundary, and 410 and 420 West K Street not meeting the requirements for being in the Historic District.

Council Member Hughes discussed the issue of fairness and the properties at 410 and 420 West K Street.

Mayor Patterson disclosed ex parte communications, the issue of fairness, design review for new development in existing neighborhoods, the need for staff to come up with remedies and solutions for the concerns, and the integrity of the process.

Council Member Ioakimedes and Staff discussed the process for the plan (go to HPRC, do an initial study, probably do a mitigated negative declaration), and the timeframe (several months).

Council, Staff, and Ms. Hartzell discussed the scenario of her property being removed from the district, which would be concurrent with the historic context, then nine months later the district itself gets expanded, and her property could be back in the district. Ms. Hartzell indicated that would be a happy compromise, as her entire block would be included and she would be afforded the same protection, which was her biggest concern.

Mayor Patterson clarified that Council would not be voting to change the boundary, it would be voting to send this back to HPRC and possibly the Planning Commission, because of the zoning aspect, and a CEQA process.

Staff discussed the various scenarios that could occur, and its lack of ability to resolve the situation based on the conditions it had in front of them.

Council Member Schwartzman discussed allowing the historic context process to work through its process, and concerns regarding the precedent that removing the properties would set.

On motion of Council Member Hughes, seconded by Vice Mayor Campbell, Council did not approve asking Staff to move forward with a plan to remove 410 and 420 West K Street from the Downtown Historic District boundary, on roll call by the following vote:

Ayes: Council Member Hughes

Noes: Council Members Campbell, Ioakimedes, Schwartzman, and Mayor Patterson

#### ACTION ITEMS:

##### First reading and introduction of an ordinance amending Chapter 8.38 (Graffiti Control) of Title 8 (Health and Safety) of the Municipal Code:

Chief Spagnoli reviewed the Staff report and a PowerPoint presentation. The following topics were reviewed:

- Graffiti Abatement & Enforcement Program
- Graffiti Enforcement Results
- PEWK/GURP Identification
- PEWK/GURP
- 300 Warwick Drive Investigation
- 300 Warwick Drive
- 300 Warwick Drive Arrests
- Gang Graffiti Tags
- 3<sup>rd</sup> Street Tunnel
- Ordinance Amendments

Council Member Hughes thanked the Police Department for their efforts. He and Staff discussed the 72-hour clause.

Council Member Schwartzman and Staff discussed the 72-hour notice, the need for consistency with the 72-hour notice throughout the document, the effectiveness of the Stockton model, and the issue of recovering funds.

Council Member Ioakimedes and Staff discussed the issue of trespassing, rights of property owners, amending it to do a cross-reference to areas that are visible to public right of way or areas that are in a public right of way, reasons for specifying paint colors that should be used when covering graffiti, and expanding the section on extreme financial hardship.

Council Member Hughes discussed the flexibility in the current clauses that gives leeway to the Police Chief.

Mayor Patterson and Staff discussed providing more tools that gives the Chief more flexibility in dealing with some of the exceptions.

Council Member Schwartzman inquired if single-family homes were included in section 8.38.150 (they were included).

Mayor Patterson and Staff discussed what would be considered as graffiti, how political statements would be dealt with, including language regarding the difficulty of graffiti removal, making the enforcement notice more user friendly, changing the notice so the property owner does not feel like a criminal, the need for findings (why minors/guardians would not have to pay for graffiti removal costs), suggested language ‘the person that did the graffiti and caused the damage to somebody else’s property, and that other people incurred expenses to remediate the graffiti, and a reward was/was not paid.’, and keeping the appeal at the hearing officer level (for appeals regarding the person that did the graffiti paying for damages).

Public comment:

None

Ms. McLaughlin summarized the following requested changes to the proposed ordinance:

- ❑ 8.38.070 – reference to the section about going onto somebody else’s property
- ❑ 8.38.071 – changing it from ease of removal to difficulty of removal
- ❑ Section 100 – changing seven days to 72 hours
- ❑ 8.38.121 – adding in the four findings
- ❑ 8.38.121 – section 2 – going to the Stockton model so it would be appealable only to the hearing officer. Staff will bring back a conforming change to chapter 144.
- ❑ Make the notice of intent to remove graffiti more user friendly

ORDINANCE 09- - AN ORDINANCE AMENDING CHAPTER 8.38 (GRAFFITI CONTROL) OF TITLE 8 (HEALTH AND SAFETY) OF THE BENICIA MUNICIPAL CODE IN ITS ENTIRETY

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

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

Noes: None

INFORMATIONAL ITEMS:

City Manager Reports:

Invitation to Local Government Summit on Governance and Fiscal Reform – July 17-18, 2009:

Mr. Erickson discussed the summit that would be held July 17-18, 2009.

Mayor Patterson confirmed she was registered for the summit.

Ms. McLaughlin confirmed that all Council Members could attend if they wanted to, it would just need to be posted and noticed accordingly.

Council Member Committee Reports:

1. Mayor's Committee Meeting - (Mayor Patterson) - Next Meeting Date: June 17, 2009
2. Association of Bay Area Governments (ABAG) - (Mayor Patterson & Vice Mayor Campbell) - Next Meeting Date: October 22, 2009 – Fall General Assembly
3. Finance, Audit & Budget Committee - (Vice Mayor Campbell & Council Member Schwartzman) - Next Meeting Date: June 24, 2009
4. League of California Cities - (Mayor Patterson & Council Member Schwartzman) - Next Meeting Date: July 17-18, 2009 – Local Government Summit
5. School Liaison Committee - (Council Members Ioakimedes & Hughes) - Next Meeting Date: June 18, 2009
6. Sky Valley Open Space Committee - (Vice Mayor Campbell & Council Member Ioakimedes) - Next Meeting Date: August 5, 2009
7. Solano EDC Board of Directors - (Mayor Patterson & Council Member Ioakimedes) - Next Meeting Date: July 23, 2009
8. Solano Transportation Authority (STA) - (Mayor Patterson & Council Member Schwartzman) - Next Meeting Date: July 8, 2009
9. Solano Water Authority/Solano County Water Agency and Delta Committee - (Mayor Patterson & Vice Mayor Campbell) - Next Meeting Date: July 9, 2009
10. Traffic, Pedestrian and Bicycle Safety Committee. (Vice Mayor Campbell & Council Member Hughes) - Next Meeting Date: July 16, 2009

11. Tri-City and County Regional Parks and Open Space - (Vice Mayor Campbell & Council Member Hughes) - Next Meeting Dates: Date to be determined in September 2009
12. Valero Community Advisory Panel (CAP) – (Council Member Hughes) - Next Meeting Date: To be determined.
13. Youth Action Coalition - (Council Members Ioakimedes & Schwartzman) - Next Meeting Date: June 24, 2009
14. ABAG/CAL FED Task Force/Bay Area Water Forum - (Mayor Patterson) - Next Meeting Date: June 22, 2009

COMMENTS FROM COUNCIL MEMBERS:

None

ADJOURNMENT:

Mayor Patterson adjourned the meeting at 9:42 p.m.

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Lisa Wolfe, City Clerk