

MINUTES OF THE  
SPECIAL MEETING – CITY COUNCIL  
JUNE 17, 2008

The special meeting of the City Council of the City of Benicia was called to order by Mayor Elizabeth Patterson at 6:45 p.m. on Tuesday, June 17, 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:

Jim Erickson, City Manager, 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:

WRITTEN:

None

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 and Assistant to the City Manager  
Employee organization: Benicia Public Service Employees' Association  
(BPSEA) - Part-Time Unit**

ADJOURNMENT:

Mayor Patterson adjourned the meeting at 6:46 p.m.

MINUTES OF THE  
REGULAR MEETING – CITY COUNCIL  
JUNE 17, 2008

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 17, 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:

Vice Mayor Campbell 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 that Council received information from Staff.

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](mailto:acardwell@ci.benicia.ca.us).

APPOINTMENTS:

None

PRESENTATIONS:

None

PROCLAMATIONS:

1. Library's 15<sup>th</sup> Birthday Celebration – June 19, 2008
2. United States Army Week – June 9-15, 2008

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:

Two items submitted (copies on file).

PUBLIC COMMENT:

1. Marilyn Bardet, Benicia First – Ms. Bardet invited Council and citizens to attend a public forum at the BHS performing art theatre on 6/24 held by Benicia First.
2. Kathy Kerridge – Ms. Kerridge discussed the Seeno project, and the need for the City to be proactive with regards to the project.
3. Vice Mayor Campbell – Vice Mayor Campbell thanked City Staff for the work done on the St. Catherine's tunnel. He discussed the City weighing in on the bicycle races that will take place – finding a route that would work and make everyone happy. He would like to see this issue discussed at a future meeting.

Council and Staff discussed the short time frame to deal with this and the letter of denial. Mr. Erickson will let the applicant know when it will be discussed.

4. Council Member Ioakimedes – Council Member Ioakimedes inquired about future discussions on the issue of introducing competition for Comcast and AT&T.

CONSENT CALENDAR:

On motion of Council Member Hughes, seconded by Vice Mayor Campbell, the Consent Calendar was adopted as presented, on roll call by the following vote:

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

Noes: None

The Minutes of May 22, 2008 and June 3, 2008 were approved.

RESOLUTION 08-59 - A RESOLUTION ACCEPTING BIDS AND AWARDING CONTRACTS TO THE LOWEST RESPONSIBLE BIDDERS TO FURNISH CHEMICALS TO THE CITY OF BENICIA FOR THE TREATMENT OF WATER AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACTS ON BEHALF OF THE CITY

RESOLUTION 08-60 - A RESOLUTION APPROVING THE JULY 1, 2007 TO JUNE 30, 2011 MEMORANDUM OF UNDERSTANDING WITH THE PART-TIME UNIT OF THE BENICIA PUBLIC SERVICE EMPLOYEES' ASSOCIATION

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

(END OF CONSENT CALENDAR)

PUBLIC HEARINGS:

First reading of a tree ordinance deleting Section 17.70.190 (H) (Preservation of Mature Trees) and replacing Chapter 12.24 (Street Trees) of the Benicia Municipal Code:

Mario Giuliani, Management Analyst, reviewed the staff report.

Council Member Hughes, Ioakimedes, and Schwartzman disclosed ex-parte communications they had on this issue.

Council and Staff discussed past confusion with the existing ordinance, which trees require a removal permit, communication between neighbors, views, tree replacement fees, alternatives to removing trees that are obstructing views, ad hoc tree committee, personal property rights, solar panels, criteria for designation of heritage trees, using a resident's health for tree removal criteria, damage to sewer and water lines, personal property rights regarding views, mediation for disputes regarding views and trees, disseminating information on mediation to residents, suggestion to include reference to the City making a proactive attempt at solving tree issues in the ordinance, not delaying the current ordinance.

Public Hearing Opened

Public Comment:

1. Lee Syracuse – Mr. Syracuse spoke in support of the proposed tree ordinance with one suggested change regarding removal of trees on privately owned property. He discussed the issue of air rights.

Council and Staff discussed the issue of a view ordinance

2. Terry McInerney – Mr. McInerney spoke in opposition to the proposed tree ordinance. He discussed concerns including fees, heritage trees, and personal property rights.

Council and Staff discussed guidelines, tree removal/replacement, fee structure, street trees, and heritage tree designation.

3. Andy Siri – Mr. Siri discussed the current and proposed ordinances. He discussed concerns regarding eucalyptus trees, maintenance, upkeep, and liability. Council and Staff discussed the City’s liability regarding trees on City owned property.
4. Mr. Gartrell – Mr. Gartrell discussed past experiences with eucalyptus trees, tree removal, and heritage trees. He cautioned against City Staff getting involved with mediation of disputes, street trees, education, and the importance of having an easy permit process.
5. Tom Skinner – Mr. Skinner stated that the proposed tree ordinance was divorced from the view ordinance. He discussed the importance of including pruning requirements to maintain views, and concerns regarding non-native trees. He spoke in opposition to the proposed ordinance.
6. Mary Frances Kelly Poh – Ms. Kelly Poh discussed concerns regarding a tree on Mr. Siri’s property, heritage trees, and education regarding trees. She spoke in support of the proposed ordinance.
7. Mr. Lunsted – Mr. Lunsted discussed the denial of his application to remove a pepper tree and the City’s lack of maintaining trees on its property.
8. Mr. Dillard – Mr. Dillard inquired about the definition of a heritage tree, concerns regarding eucalyptus trees, the issue of liability, and the rights of private property owners.
9. Randy Anderson – Mr. Anderson discussed trees on single-family residences, eucalyptus trees, and the Tree Committee’s understanding that the designation of heritage trees would be subject to the approval of the property owner.
10. Alison Fleck – Ms. Fleck discussed her involvement in the proposed ordinance, heritage trees, and the need for tree education.
11. Joe Kearns – Mr. Kearns suggested five rules for dealing with trees.

#### Public Hearing Closed

Mayor Patterson called for a 5-minute break at 9:05 p.m.

The meeting resumed at 9:12 p.m.

Mr. Erickson clarified that the ordinance gives the single-family property owners (as well as other districts) more rights rather than less rights. Council could make changes to issues such as the heritage trees and dealing with eucalyptus trees. The subject of views is quite difficult and could be dealt with at another time. Staff felt that the proposed ordinance is a significant improvement to what is currently in place.

Council and Staff discussed shifting the burden of proof that solar panels will create a savings back onto the City, holding off on discussing views at this time, coming back at a future meeting to discuss views related to trees, the City taking a more proactive approach regarding neighbor disputes, making the change to the designation of heritage trees (On page VIII-A-11 - keeping the first sentence the same. The next sentence would read ‘The City shall notify the property owner of the nomination. If the property owner consents to the designation, the decision to recommend the tree as a heritage tree shall be submitted to the Parks, Recreation and Cemetery Commission. The rest of the paragraph

would remain the same.), bringing back the issue of views as a policy issue in January 2009, groves of trees being designated as heritage trees, pruning trees where birds are nesting, public notice regarding the tree ordinance, educating the citizens about the ordinance, residential vs. non-residential property, multi-family property being considered residential property, concerns regarding property owners being required to prove savings for removing trees and installing solar panels, mediation (the City not getting involved in mediation), concerns regarding the requirement of a permit to trim trees, the need for the City to take care of its own trees, the need to come up with a way to motivate residents to maintain trees.

Mayor Patterson summarized that Council would introduce ordinance with changes on 12.24.050 – heritage trees – to reflect the consent of property owners.

Council’s recommendation to Staff was to take this back to the Parks, Recreation and Cemetery Commission, go with version #2 regarding views, delete footnote #1, and make the language simpler for residents to install solar panels. Views in relation to trees would be looked at sometime in January.

Council thanked Staff and the Tree Committee for their efforts.

ORDINANCE 08- - AN ORDINANCE REPEALING AND REPLACING CHAPTER 12.24 (STREET TREES) OF TITLE 12 (STREETS, SIDEWALKS AND PUBLIC PLACES) OF THE BENICIA MUNICIPAL CODE RELATING TO THE REGULATION OF TREES

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

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

Noes: Council Member Ioakimedes

RESOLUTION 08-61 - A RESOLUTION AMENDING THE MASTER FEE SCHEDULE TO INCLUDE TREE REPLACEMENT FEES

On motion of Council Member Hughes, seconded by Vice Mayor Campbell, 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 Comment:

1. Carl Karr – Mr. Karr thanked the City for participating in the process of recognizing the part-time workers and following through with the first ratification of the first union contract for part-time workers.

ACTION ITEMS:

Design review for non-historic residences in the Downtown Historic Overlay District: Council Members Campbell, Ioakimedes, and Schwartzman all had a conflict of interest for the agenda item and therefore had to draw cards to see who could participate in the discussion. After the cards were drawn, Council Members Ioakimedes and Campbell recused themselves from discussion on this item.

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

Council and Staff discussed the past discussions on the threshold issue, and enclaves and exclaves in the district.

Public Comment:

1. Carl Lunsted – Mr. Lunsted asked for clarification on rules for painting and window replacements, siding, and roofing.
2. Donald Dean – Mr. Dean spoke in support of the proposed resolution.
3. Bonnie Silveria – Ms. Silveria spoke in support of the proposed resolution.
4. Donnell Rubay – Ms. Rubay spoke in support of the proposed resolution.
5. Jon Van Landschoot – Mr. Van Landschoot spoke in support of the proposed resolution.

Council and Staff discussed the rights of property owners, routine maintenance, reach out efforts to homeowners in the district, and additions to non-historic homes in the district.

RESOLUTION 08-62 - A RESOLUTION AMENDING THE DOWNTOWN HISTORIC CONSERVATION PLAN TO REQUIRE DESIGN REVIEW FOR CONSTRUCTION AND MODIFICATIONS OF NON-HISTORIC SINGLE-FAMILY RESIDENCES AND DUPLEXES

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 Hughes, Schwartzman, and Mayor Patterson

Noes: None

Abstain: Council Members Campbell and Ioakimedes

Approval of a new process for appointments to City boards, commissions, and committees:

Anne Cardwell, Assistant to the City Manager, reviewed the staff report.

Council and Staff discussed having joint interviews, adding joint interviews to the resolution in the ‘now therefore be it resolved section’, Brown Act rules, notification by the City Attorney to the Mayor on the committee’s recommendations, process for notifying the committee of recommendations by the two council members, process for the Mayor rejecting recommendations made by the sub-committee, suggestion to have the interviews done by one Council Member and the Mayor, the need for a more transparent

process, the need for avoiding the situation of embarrassing applicants in public, and the need to have checks and balances.

RESOLUTION 08-63 - A RESOLUTION OF THE CITY COUNCIL REVISING THE PROCEDURE FOR APPOINTMENT TO BOARDS, COMMISSIONS AND COMMITTEES TO INCORPORATE RECOMMENDATIONS TO THE MAYOR FROM A CITY COUNCIL APPOINTMENT SUBCOMMITTEE

On motion of Council Member Schwartzman, seconded by Vice Mayor Campbell, 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 08-64 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF COUNCIL MEMBER IOAKIMEDES TO A CITY COUNCIL APPOINTMENT SUBCOMMITTEE TO A ONE-YEAR TERM ENDING JUNE 30, 2009

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 08-65 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF COUNCIL MEMBER CAMPBELL TO A CITY COUNCIL APPOINTMENT SUBCOMMITTEE TO A TWO-YEAR TERM ENDING JUNE 30, 2010

The above resolution was adopted, on roll call by the following vote:

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

Noes: None

Council Member Schwartzman suggested making the committee member changeovers after December, so it would correspond with elections.

INFORMATIONAL ITEMS:

Reports from City Manager:

Jim Erickson, City Manager, announced that the City had hired Valerie Ruxton as the new Human Resources Director. The City is still in the recruitment process for the Fire Chief.

Council Member Committee Reports:

1. Mayor's Committee Meeting - (Mayor Patterson) - Next Meeting Date: June 18, 2008

2. Association of Bay Area Governments (ABAG) - (Mayor Patterson & Vice Mayor Campbell) - Next Meeting Date: To be determined.
3. Audit & Finance Committee – (Vice Mayor Campbell & Council Member Schwartzman) - Next Meeting Date: August 8, 2008
4. League of California Cities - (Mayor Patterson & Council Member Schwartzman) - Next Meeting Date: To be determined.
5. School Liaison Committee - (Council Members Ioakimedes & Hughes) - Next Meeting Date: August 7, 2008
6. Sky Valley Open Space Committee - (Vice Mayor Campbell & Council Member Ioakimedes) - Next Meeting Date: July 16, 2008
7. Solano EDC Board of Directors - (Mayor Patterson & Council Member Ioakimedes) - Next Meeting Date: July 24, 2008
8. Solano Transportation Authority (STA) - (Mayor Patterson & Council Member Schwartzman) - Next Meeting Date: July 9, 2008
9. Solano Water Authority/Solano County Water Agency - (Mayor Patterson & Vice Mayor Campbell) - Next Meeting Date: July 10, 2008
10. Traffic, Pedestrian and Bicycle Safety Committee - (Vice Mayor Campbell & Council Member Hughes) - Next Meeting Date: July 17, 2008
11. Tri-City and County Regional Parks and Open Space - (Vice Mayor Campbell & Council Member Hughes) - Next Meeting Date: CAC – August 20, 2008; Governing Board – September 8, 2008
12. Valero Community Advisory Panel (CAP) – (Council Member Hughes) - Next Meeting Date: July 23, 2008
13. Youth Action Task Force - (Council Members Ioakimedes & Schwartzman) - Next Meeting Date: June 25, 2008
14. ABAG/CAL FED Task Force/Bay Area Water Forum - (Mayor Patterson) - Next Meeting Date: June 30, 2008

COMMENTS FROM COUNCIL MEMBERS:

None

ADJOURNMENT:

Mayor Patterson adjourned the meeting at 10:42 p.m.

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Lisa Wolfe, City Clerk