

OF THE
REGULAR MEETING – CITY COUNCIL
June 18, 2013

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

I. CALL TO ORDER:

Vice Mayor Campbell called the meeting to order at 7:00 p.m.

II. CLOSED SESSION:

III. CONVENE OPEN SESSION:

A. ROLL CALL

Mayor Patterson and Council Member Schwartzman were absent. All other Council Members were present.

B. PLEDGE OF ALLEGIANCE

Vice Mayor Campbell led the Pledge of Allegiance.

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF PUBLIC

IV. ANNOUNCEMENTS/PROCLAMATIONS/ APPOINTMENTS/PRESENTATIONS:

A. ANNOUNCEMENTS

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

2. Openings on Boards and Commissions:

Arts and Culture Commission
1 unexpired term
2 full terms
Open Until Filled

Benicia Housing Authority Board of Commissioners
1 full term
Application due date: June 14, 2013

Human Services Board

2 full terms
Application due date: June 14, 2013

Open Government Commission
1 full term
Application due date: June 14, 2013

Historic Preservation Review Commission
2 full terms
1 unexpired term
Application due date: June 14, 2013

Library Board of Trustees
2 full terms
Application due date: June 14, 2013

Parks, Recreation and Cemetery Commission
2 full terms
Application due date: June 14, 2013

Economic Development Board
1 unexpired term
Application due date: June 14, 2013

3. Mayor's Office Hours:

4. Benicia Arsenal Update

Verbal update from City Attorney

B. PROCLAMATIONS

C. APPOINTMENTS

D. PRESENTATIONS

V. ADOPTION OF AGENDA:

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

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

VI. OPPORTUNITY FOR PUBLIC COMMENT:

A. WRITTEN COMMENT

Four items were submitted (copies on file).

B. PUBLIC COMMENT

None

VII. CONSENT CALENDAR:

Council pulled Items VII.F and VII.G for discussion.

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

Ayes: Campbell, Hughes, Strawbridge

Noes: (None)

A. APPROVAL OF THE MINUTES OF THE JUNE 4, 2013 CITY COUNCIL MEETING

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

C. AWARD OF CHEMICAL CONTRACTS FOR WATER AND WASTEWATER TREATMENT - FISCAL YEAR 2013-2014

RESOLUTION 13-36 - A RESOLUTION ACCEPTING BIDS AND AWARDING CONTRACTS TO THE LOWEST RESPONSIBLE BIDDERS FOR FURNISHING CHEMICALS FOR WATER AND WASTEWATER TREATMENT FOR FISCAL YEAR 2013-2014 AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONTRACTS ON BEHALF OF THE CITY

D. PURCHASE OF ROCK, FITTINGS AND HARDWARE FOR FY 13/14

RESOLUTION 13-37 - A RESOLUTION AUTHORIZING THE PURCHASE OF CRUSHED AGGREGATE ROCK FOR FISCAL YEAR 2013-2014 FROM SYAR INDUSTRIES INC. OF VALLEJO, CALIFORNIA, FOR A NOT-TO-EXCEED COST OF \$40,000

RESOLUTION 13-38 - A RESOLUTION AUTHORIZING THE PURCHASE OF WATER DISTRIBUTION PIPELINE FITTINGS AND HARDWARE FOR FISCAL YEAR 2013-2014 FROM ROBERTS & BRUNE CO. OF OAKLEY, CALIFORNIA, FOR A NOT-TO EXCEED COST OF \$75,000

- E. ACCEPTANCE OF PROPOSAL FOR PUBLISHING AND PRINTING LEGAL NOTICES FROM BENICIA HERALD AND APPROVAL OF AN AGREEMENT BETWEEN THE CITY AND BENICIA HERALD FOR FISCAL YEARS 2013/2014 AND 2014/2015**

RESOLUTION 13-39 - A RESOLUTION ACCEPTING THE PROPOSAL FOR LEGAL PUBLICATIONS FROM THE BENICIA HERALD, AWARDING THE CONTRACT FOR FISCAL YEARS 2013-2014 AND 2014-2015, AND AUTHORIZING MAYOR AND CITY CLERK TO EXECUTE SAID AGREEMENT

- F. APPROVAL OF A HORSE GRAZING LEASE AGREEMENT BETWEEN THE CITY OF BENICIA AND TY HAMILTON FOR CITY-OWNED PARCEL**

RESOLUTION 13-40 - A RESOLUTION APPROVING A HORSE GRAZING LEASE AGREEMENT BETWEEN THE CITY OF BENICIA AND TY HAMILTON FOR CITY-OWNED PARCEL AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

Vice Mayor Campbell and Staff discussed whether Staff had spoken to Mr. Everett about this issue (Staff had spoken to Mr. Everett and no issues were reported.)

Public Comment

None

On motion of Council Member Hughes, seconded by Council Member Strawbridge, Council adopted Resolution 13-40, on roll call by the following vote:

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

- G. CITY OF BENICIA LANDSCAPING AND LIGHTING DISTRICT FISCAL YEAR 2013-2014**

RESOLUTION 13-41 - A RESOLUTION DESCRIBING IMPROVEMENTS AND DIRECTING PREPARATION OF ENGINEER'S REPORT FOR THE CITY OF BENICIA LANDSCAPING AND LIGHTING DISTRICT, FISCAL YEAR 2013-2014

RESOLUTION 13-42 - A RESOLUTION PRELIMINARILY APPROVING THE ENGINEER'S REPORT FOR THE CITY OF BENICIA LANDSCAPING AND

LIGHTING DISTRICT, FISCAL YEAR 2013-14

RESOLUTION 13-43 - A RESOLUTION OF INTENTION TO ORDER THE LEVY AND COLLECTION OF ASSESSMENTS PURSUANT TO THE LANDSCAPING AND LIGHTING ACT OF 1972 AND THEREFORE SETTING A PUBLIC HEARING ON JULY 2, 2013 TO CONSIDER THE FISCAL YEAR 2013-14 CITY OF BENICIA LANDSCAPING AND LIGHTING DISTRICT

Council Member Hughes and Staff discussed the issue of incoming revenue vs. cost of maintaining the L&L Districts, the issue of raising rates, and the need to reach out to the residents in the districts to educate them and discuss the rate issue.

Public Comment:

None

On motion of Council Member Strawbridge, seconded by Council Member Hughes, Council adopted Resolution 13-41, on roll call by the following vote:

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

On motion of Council Member Strawbridge, seconded by Council Member Hughes, Council adopted Resolution 13-42, on roll call by the following vote:

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

On motion of Council Member Strawbridge, seconded by Council Member Hughes, Council adopted Resolution 13-43, on roll call by the following vote:

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

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

VIII. BUSINESS ITEMS:

A. APPROVAL OF THE SAFE ROUTES TO SCHOOL TASK FORCE'S RECOMMENDED PROJECTS AND AUTHORIZATION TO APPLY FOR FEDERAL GRANT FUNDING FOR CONSTRUCTION

RESOLUTION 13-44 - A RESOLUTION APPROVING THE SAFE ROUTES TO SCHOOL TASK FORCE'S RECOMMENDED PROJECTS

RESOLUTION 13-45 - A RESOLUTION AUTHORIZING THE CITY MANAGER TO FILE AND APPLICATION FOR FUNDING ASSIGNED TO THE METROPOLITAN TRANSPORTATION COMMISSION AND COMMITTING THE NECESSARY NON-FEDERAL MATCH AND STATING THE ASSURANCE TO COMPLETE THE PROJECT

Melissa Morton, Public Works Director, reviewed the staff report and a PowerPoint presentation.

Council Member Hughes and Staff discussed the issues raised by Mr. Goetz via written comment (soft hit posts and the Tree Master Plan).

Public Comment:

1. Vicki Buffet - Ms. Buffet discussed the improvements around Robert Semple Elementary as referenced in the staff report.

On motion of Council Member Hughes, seconded by Council Member Strawbridge, Council adopted Resolution 13-44, on roll call by the following vote:

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

On motion of Council Member Hughes, seconded by Council Member Strawbridge, Council adopted Resolution 13-45, on roll call by the following vote:

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

B. BENICIA INDUSTRIAL PARK BUS HUB PROJECT: APPROVAL OF A RESOLUTION CONFIRMING PROJECT COMPLIANCE AND REQUESTING \$135,000 IN GRANT FUNDING FOR ENVIRONMENTAL/PRELIMINARY ENGINEERING

RESOLUTION 13-46 - A RESOLUTION CONFIRMING PROJECT COMPLIANCE AS THE REGIONAL MEASURE 2 (RM2) IMPLEMENTING AGENCY AND REQUESTING THE METROPOLITAN TRANSPORTATION COMMISSION ALLOCATE \$135,000 IN RM2 FUNDING FOR THE ENVIRONMENTAL & PRELIMINARY ENGINEERING PHASE OF THE BENICIA INDUSTRIAL PARK TRANSIT HUB PROJECT

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

Council Member Hughes and Staff discussed what outreach had been done with the Benicia Industrial Park Association (BIPA) regarding this issue, whether

there were any strings attached if the City were to accept the proposed funds (none).

Council Member Strawbridge discussed this being a positive move towards enhancing the Benicia Industrial Park. They discussed the coordination that had been done with Union Pacific.

Vice Mayor Campbell and Staff discussed Union Pacific's removal of tracks in the area, and possible relocation/removal of tracks in the First Street area.

Public Comment:

1. H.R. Autz - Mr. Autz discussed support for the proposed project.

On motion of Council Member Strawbridge, seconded by Council Member Hughes, Council adopted Resolution 13-46, on roll call by the following vote:

Ayes: Campbell, Hughes, Strawbridge

Noes: (None)

**C. APPEAL OF GENERAL PLAN CONSISTENCY DETERMINATION:
LOWER ARSENAL RESIDENTIAL CARE USE**

RESOLUTION 13-47 – A RESOLUTION UPHOLDING THE PLANNING COMMISSION’S CONFIRMATION OF THE COMMUNITY DEVELOPMENT DIRECTOR’S DETERMINATION FOR ZONING AND GENERAL PLAN CONSISTENCY REGARDING RESIDENTIAL CARE, GENERAL USE ON JEFFERSON STREET, LOWER ARSENAL

Amy Million, Principal Planner, reviewed the staff report.

Council Member Hughes and Staff explained that this discussion was regarding clarification of land use and General Plan consistency, not a specific project.

Vice Mayor Campbell and Staff discussed the vote required to pass the proposed resolution. Staff confirmed there needed to be three affirmative votes to pass it, two affirmative votes to deny it, or Council could continue the item.

Vice Mayor Campbell and Staff discussed the different zoning definitions in the area.

Public Hearing Opened

Appellant - Dana Dean, representing Amports:

Ms. Dean discussed concerns listed in her colored handouts (copies on file): Inconsistencies with City's Land Use and Development Plans, Guidelines for implementation of the CEQA (Contents of EIR's), partial transcript from the 5/9/13 Planning Commission meeting, Attachment to appeal (green), Planning Director's determination of General Plan consistency in various jurisdictions, and the City of Oakland's guidelines for determining project conformity with the general plan and zoning regulations.

Vice Mayor Campbell, Staff, and Ms. Dean discussed the issue of the inconsistency with the City's Land Use and Development Plans, the review that had been done by the Planning Commission, and noticing requirements. They discussed the issue of mitigations vs. conditions.

Applicant - Steve Gizzi, representing Jefferson Ridge At Benicia:

Mr. Gizzi discussed the issues of consistency determinations and proposed uses. He discussed the issue of over-the-counter determinations. It was important to his clients to know whether a project of this nature meets the most basic requirements of zoning and general plan consistency. He discussed the type of project his client was considering. They submitted a version of the proposal (which was intended to be modified after input received) to help in determining the consistency, not for project consideration. There is no project before the Council. There has been an initial application, which is not yet complete.

Vice Mayor Campbell and Mr. Gizzi clarified that what was being voted on tonight was whether or not this was an approved use in the specified area. It was not the approval of a project.

Public Comment:

1. Larry Fullington - Mr. Fullington spoke in opposition to the consistency determination and the type of project that has been discussed. He suggested a hospital type project be built on the Seeno property. He suggested continuing this item until all Council Members were present.

Staff confirmed that Mayor Patterson had asked for a continuance. Council could not grant a continuance unless both the applicant and the appellant agreed. The applicant did not agree, so the item could not be continued. .

2. Sue Fisher Jones, Valero - Ms. Fisher Jones discussed Valero's concern regarding residential use in the proposed area.
3. Marilyn Bardet - Ms. Bardet spoke in opposition to residential use being

allowed in the proposed area, and in support of upholding the appeal. She read the letter submitted by Reed Robbins attorney (copy on file).

4. H.R. Autz - Mr. Autz discussed the need for public input on this issue. He would like the City to give the project to the respective committees for consideration. The City could use a senior assisted living facility.
5. Kathy Kerridge - Ms. Kerridge spoke in support of having an assisted living facility in Benicia, but not in the proposed area. She discussed concerns regarding industrial accidents and the ability to evacuate residents safely.

Rebuttal:

Appellant - Dana Dean, representing Amports:

Ms. Dean discussed concerns regarding the General Plan inconsistencies with the proposed use, encroachment on the Industrial Park with incompatible uses. This is not consistent with the goals in the City's General Plan.

Applicant - Steve Gizzi representing Jefferson Ridge At Benicia:

Mr. Gizzi discussed the community support expressed for the proposed use at previous Planning Commission and study session meetings. If the consistency determination is upheld, the applicant will present a project for review.

Public Hearing Closed

Ms. McLaughlin discussed amending the resolution by changing the 'now therefore be it resolved' to read 'the City Council of the City of Benicia denies the appeal, upholds in part, the Planning Commission denial of the appeal and confirmation of the Community Development Director's determination, and confirms the determination of the Community Development Director that a land use consisting of residential care, general facility, would be consistent with both the Office Commercial Zoning District and the Lower Arsenal Mixed Use designation in the General Plan, and that the zoning ordinance and the General Plan are also consistent with each other in this regard.' Then modify the 'be it further resolved' to read 'the determination that such use is consistent with the General Plan designation and zoning ordinance does not in any way mean that a specific project will be approved. Any proposed project for such use on the subject site must undergo discretionary review by the Planning Commission for a use permit, and the HPRC for design review, and be found consistent with the General Plan goals and policies and all other applicable city land use regulations based on the specific characteristics of the proposed project as set forth in the project application.'

Council Member Hughes asked for a short reaction from the appellant and

applicant on the proposed language

Dana Dean agreed to the proposed amendments.

Steve Gizzi agreed to the proposed amendments.

Council Member Hughes made a motion to approve the resolution as modified.

Kat Wellman, Contract Attorney, addressed the issue of notification requirements and how requested notifications are handled.

Vice Mayor Campbell and Staff discussed the zoning for the proposed area. The current designation is office/commercial. Vice Mayor Campbell discussed the issue of the buffer zone.

On motion of Council Member Hughes, seconded by Council Member Strawbridge, Council adopted Resolution 13-47, as amended, on roll call by the following vote:

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

D. Council Member Committee Reports:

- 1. Mayor's Committee Meeting.(Mayor Patterson) Next Meeting Date: June 26, 2013**
- 2. Association of Bay Area Governments (ABAG)<http://www.abag.ca.gov/>. (Mayor Patterson and Council Member Strawbridge)Next Meeting Date: TBD**
- 3. Finance Committee. (Vice Mayor Campbell and Council Member Strawbridge)Next Meeting Date: June 28, 2013**
- 4. League of California Cities. (Mayor Patterson and Vice Mayor Campbell) Next Meeting Date: July 31, 2013**
- 5. School Liaison Committee. (Council Members Strawbridge and Council Member Hughes) Next Meeting Date: September 5, 2013**
- 6. Sky Valley Open Space Committee. (Vice Mayor Campbell and Council Member Schwartzman) Next Meeting Date: August 7, 2013**
- 7. Solano EDC Board of Directors. (Mayor Patterson and Council Member Strawbridge) Next Meeting Date: July 11, 2013**

8. **Solano Transportation Authority (STA).** <http://www.sta.ca.gov/> (Mayor Patterson and Council Member Schwartzman) Next Meeting Date: July 10, 2013
9. **Solano Water Authority-Solano County Water Agency and Delta Committee.** <http://www.scwa2.com/>(Mayor Patterson) Next Meeting Date: July 11, 2013
10. **Traffic, Pedestrian and Bicycle Safety Committee.** (Vice Mayor Campbell and Council Member Schwartzman) Next Meeting Date: July 18, 2013
11. **Tri-City and County Cooperative Planning Group.** (Council Member Hughes) Next Meeting Date: September 9, 2013
12. **Valero Community Advisory Panel (CAP).** (Mayor Patterson and Council Member Hughes) Next Meeting Date: TBD
13. **Youth Action Coalition.** (Mayor Patterson, Council Member Strawbridge and Council Member Hughes) Next Meeting Date: June 26, 2013
14. **ABAG-CAL FED Task Force-Bay Area Water Forum.** <http://www.baywaterforum.org/> (Mayor Patterson)Next Meeting Date: TBD
15. **SOLTRANS Joint Powers Authority** (Mayor Patterson, Council Member Hughes and Council Member Schwartzman) Next Meeting Date: June 27, 2013

IX. ADJOURNMENT:

Vice Mayor Campbell adjourned the meeting at 8:48 p.m.

Lisa Wolfe, City Clerk