

MINUTES OF THE  
REGULAR MEETING – CITY COUNCIL  
AUGUST 18, 2009

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Elizabeth Patterson at 7:01 p.m. on Tuesday, August 18, 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:

Council Member Hughes 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
- Human Services and Arts Board:
  - One unexpired term to June 30, 2010
  - One full term 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.

Mayor Patterson announced that the Council meeting would be adjourned in memory of Joe Thomas, former City of Benicia Planning Commissioner. The City of Benicia mourns the loss of one of its most valuable members, Joe Thomas, who passed away on July 27 following a struggle with pancreatic cancer.

APPOINTMENTS:

Mayor Patterson stated that she would like to read the appointments and have them approved with one motion.

RESOLUTION 09-74 - A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENT OF ELLEN BLAUFARB TO THE HUMAN SERVICES AND ARTS BOARD TO A FULL TERM ENDING JULY 31, 2013

RESOLUTION 09-75- A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENT OF SANDRA KOZAK TO THE HUMAN SERVICES AND ARTS BOARD TO A FULL TERM ENDING JULY 31, 2013

RESOLUTION 09-76 - A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENT OF RON ARRANTS TO THE LIBRARY BOARD OF TRUSTEES TO A FULL TERM ENDING JULY 31, 2012

RESOLUTION 09-77 - A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENT OF JANICE AMENTA TO THE BENICIA HOUSING AUTHORITY BOARD OF COMMISSIONERS TO A FULL TERM ENDING JULY 31, 2013

RESOLUTION 09-78 - A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENT OF SANDY MORIARTY TO THE PARKS, RECREATION AND CEMETERY COMMISSION TO A FULL TERM ENDING JULY 31, 2013

RESOLUTION 09-79 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF KEN PAULK TO THE PARKS, RECREATION AND CEMETARY COMMISSION TO A FULL TERM ENDING JULY 31, 2013

RESOLUTION 09-80 - A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENT OF STEVE MCKEE TO THE HISTORIC PRESERVATION REVIEW COMMISSION TO A FULL TERM ENDING JULY 31, 2013

RESOLUTION 09-81 - A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENT OF TONI HAUGHEY TO THE HISTORIC PRESERVATION REVIEW COMMISSION TO A FULL TERM ENDING JULY 31, 2013

RESOLUTION 09-82 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF JAMES WALLACE TO THE OPEN GOVERNMENT COMMISSION TO A FULL TERM ENDING JULY 31, 2013

On motion of Council Member Hughes, seconded by Council Member Schwartzman, the above Resolutions were adopted, on roll call by the following vote:

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

Noes: None

PRESENTATIONS:

PROCLAMATIONS:

□ Children's Network Of Solano County

Mr. Gerry Raycraft, Childcare Planning Council, discussed the need for quality, affordable childcare in Solano County. A Video regarding quality childcare in Solano County was shown.

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:

PUBLIC COMMENT:

1. Gene Doherty – Mr. Doherty spoke in favor of having a child daycare center in the Benicia Business Park Project. He discussed the possible fee increase for the California State Parks.  
Mayor Patterson discussed the ten California State Parks that have been closed. She discussed Benicia’s lack of tolerance for closing its two State Parks.
2. Dan Smith – Mr. Smith congratulated Council on its recent appointments. He thanked the City for its class and consideration of Mr. Joe Thomas. He thanked the Children’s Network for their efforts.
3. Brent Roath – Mr. Roath spoke in favor of maintaining the open space in the City of Benicia.

CONSENT CALENDAR:

Council pulled items VII-C, VII-D, VII-H, and VII-K.

On motion of Council Member Hughes, seconded by Council Member Schwartzman, 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 Minutes of July 17, 2009 and July 21, 2009.

Council approved the denial of the claim against the City by Joseph Arone and referral to insurance carrier.

ORDINANCE 09-15 - AN ORDINANCE AMENDING SECTION 2.60.120 (APPLICATION) OF CHAPTER 2.60 (ADVISORY BODIES) BY ADDING A NEW SUBSECTION K AND ADDING A NEW CHAPTER 2.104 (ARTS AND CULTURE COMMISSION) TO DIVISION 2 (BOARDS AND COMMISSIONS) OF TITLE 2 (ADMINISTRATION AND PERSONNEL) OF THE BENICIA MUNICIPAL CODE

ORDINANCE 09-16 – AN ORDINANCE AMENDING SECTION 2.60.120 (APPLICATION) OF CHAPTER 2.60 (ADVISORY BODIES) BY ADDING A NEW SUBSECTION L AND ADDING A NEW CHAPTER 2.108 (COMMUNITY SUSTAINABILITY COMMISSION) TO DIVISION 2 (BOARDS AND COMMISSIONS) OF TITLE 2 (ADMINISTRATION AND PERSONNEL) OF THE BENICIA MUNICIPAL CODE

RESOLUTION 09-83 - A RESOLUTION AUTHORIZING THE PURCHASE OF CRUSHED AGGREGATE ROCK FOR FY 2009/10 FROM SYAR INDUSTRIES INC. OF VALLEJO, CALIFORNIA, FOR A NOT-TO-EXCEED COST OF \$35,000

Council accepted the Annual Report of the Open Government Commission.

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

(END OF CONSENT CALENDAR)

Council took the following actions:

Denial of the Claim against the City by Richard Carl and referral to insurance carrier:  
Vice Mayor Campbell and Staff discussed the issue of the City tree falling on the car.

On motion of Council Member Hughes, seconded by Council Member Schwartzman, Council approved the denial of the claim against the City by Richard Carl and referral to insurance carrier, on roll call by the following vote:

Ayes: Council Members Hughes, Schwartzman, and Mayor Patterson

Noes: Council Members Campbell and Ioakimedes

Approve 2009-11 Agreement between the City of Benicia and Benicia Main Street:

Council Member Ioakimedes discussed the lack of responses on Benicia Main Street's 2000 survey. He would like language inserted regarding requiring a certain number of respondents (10-39).

Staff discussed the issue of performance measures.

Public Comment:

1. Nancy Martinez, Benicia Main Street – Ms. Martinez discussed the proposed number of required respondents (10-39), the surveys that Benicia Main Street sends to the merchants on First Street after each event and possible alternative methods of conducting surveys (phone).  
Staff suggested not listing a specific number of required respondents, and possibly thinking more about what that number should be.
2. Ken Paulk – Mr. Paulk discussed the need to see a return on the City's investments. He would like to see Benicia Main Street work more closely with the Chamber of Commerce on tourism events, etc.

Mayor Patterson suggested Council give direction to Staff to amend the language stating that the survey would seek more data that is more reliable to give indications of the effectiveness of the programs with something that is statistically significant.

On motion of Council Member Ioakimedes, seconded by Council Member Schwartzman, to approve the agreement, as amended, on roll call by the following vote:

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

Noes: None

Proposed Identity Theft Prevention (FTC Red Flags Rule) Program:

Council discussed concerns regarding the major hardship this would create for small businesses, how credit cards purchases are handled at City Hall, identity theft statistics in the City, the expertise required to deal with the issue of identity theft, and a suggestion that Staff prepare a list of suggestions to protect citizens' identity.

Public Comment:

1. Gene Doherty – Mr. Doherty discussed the effect the program would have on small businesses. He offered to share his knowledge and expertise regarding the issue with Staff.

On motion of Council Member Schwartzman, seconded by Vice Mayor Campbell, Council approved the Identity Theft Prevention Program – Red Flags, on roll call by the following vote:

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

Noes: None

First reading of an amendment to the General Provisions Chapter of the Municipal Code regarding City Council issuing of subpoenas:

Council Member Schwartzman and Staff discussed why Council might want the authority to issue subpoenas.

Vice Mayor Campbell discussed his lack of support for this item at this time.

Council and Staff discussed the proposed ordinance, how Council could currently handle situations that would require a subpoena, changing the existing ordinances that refer to the Council's ability to issue subpoenas, subpoenas relating to actions taken during closed session, when the last subpoena was issued by Council, giving direction to Staff to draft amend the existing ordinances to remove the policy regarding subpoenas, Council's ability to draft an ordinance in the future (if needed) granting it the authority to issue subpoenas, and how this could relate to the campaign finance issue.

Vice Mayor Campbell made a motion to deny the introduction and first reading of the proposed ordinance.

Council Member Schwartzman stated that he would second the motion if Council specified that the current ordinances remain unchanged (regarding subpoenas).

Public Comment:

1. Kimble Goodman – Mr. Goodman discussed concern regarding individuals working on different campaigns. He inquired what other cities the size of Benicia did regarding issuing subpoenas.
2. Jubal Biggs – Mr. Biggs discussed the issue of the subpoena power not being exercised for the last 15 years or so.

On motion of Vice Mayor Campbell, seconded by Council Member Campbell, Council denied the Introduction and First reading of the amendment to the General Provisions Chapter of the Municipal Code regarding City Council issuing of subpoenas, on roll call by the following vote:

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

Noes: None

PUBLIC HEARINGS:

None

ACTION ITEMS:

Consideration of entering an agreement with the Solano Transportation Authority and the City of Vallejo to study the implementation of the South Solano Transit Authority:

Jim Erickson, City Manager, introduced the item.

Vice Mayor Campbell and Staff discussed concerns regarding Route 78 (more costly/less efficient).

Rob Sousa, Finance Director, discussed Route 78, the issue of consolidation, initial meetings held regarding the consolidation, how the consolidation would reduce the City's carbon footprint, simplify, improve and enhance the service, Vallejo's transit agency being a separately funded entity (from the City of Vallejo), Staff's efforts to cover all bases regarding the issue, and dealing with Route 75/78 issue.

Vice Mayor Campbell discussed concerns regarding 'less direct oversight.'

Mr. Erickson discussed the issue of ridership on Route 78 and Route 75, the effects of the current economy on ridership, and the issue of equal partnership (not being a second class player).

Mayor Patterson and Staff discussed the issue of consolidation, adverse effects on rural and small communities, guiding principles, not diminishing the existing service, concerns regarding the City being adversely affected, the skill and expertise that the Vallejo Transit staff bring, and the opportunity to deal with para-transit and senior transportation.

Council Member Hughes discussed sharing Vice Mayor Campbell's concerns, doing nothing not being a good option for the City at this time, concerns regarding the consolidation, pointing out that this was 'to study', and how he was impressed with the work the committee did regarding the guiding principles.

Vice Mayor Campbell discussed the gun range near the City of Cordelia and the money the City of Benicia lost.

Council Member Campbell discussed Benicia's lack of an equal voice regarding Route 78 and the need for an equal voice in the proposed JPA.

Daryl Halls, Solano Transit Authority, discussed the issue of the City of Benicia entering an agreement with the Solano Transportation Authority and the City of Vallejo to study the implementation of the South Solano Transit Authority. He reviewed a PowerPoint presentation (copy on file).

Public Comment:

1. Mary Francis Kelly Poh – Ms. Kelly Poh discussed the need for adequate transportation in the northern part of Benicia, difficulties her clients have in getting to and from County programs, problems she has had with local transit.
2. Ken Paulk – Mr. Paulk discussed the need to increase revenues and become more efficient, possibly looking at consolidation in a piece-meal scenario – starting small.
3. Jubal Biggs – Mr. Biggs discussed the need to pay attention to the issue of the merger being profitable, concerns regarding it becoming a bureaucratic agency, how Israel is currently addressing public transportation.

Council and Mr. Halls discussed the piece-meal approach, partnership approach, having one transit authority, and why MTC is telling the City that they will not put money into a single option.

Vice Mayor Campbell, Staff, and Mr. Halls discussed Route 75, Route 78, decrease in ridership, the County rail system, the issue of flexibility, problems regarding Route 78, the need to do the review, the issue of choice riders, the need to serve every segment of our transit population, adding 'all' to 'ridership', making language in the guiding principles stronger (taking out loose language), the need for an opt-out clause, why the City went to a more expensive bus system (Route 78), and STA working with Staff regarding the accounting ledger.

Council Member Hughes prefaced his motion with a comment that this was a step to evaluate what the City's options were.

RESOLUTION 09-84 - A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING BY AND AMONG THE SOLANO TRANSPORTATION AUTHORITY, THE CITY OF BENICIA AND THE CITY OF VALLEJO FOR THE IMPLEMENTATION OF THE SOUTH SOLANO TRANSIT AUTHORITY

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

Mayor Patterson called for a 5-minute break at 9:33 p.m.

The meeting resumed at 9:40 p.m.

Appeal of City Manager's decision not to interview Intergy Corporation for the Renewable Energy Project:

Jim Erickson, City Manager, and Charlie Knox, Public Works & Community Development Director, reviewed the staff report.

Council and Staff discussed the RFP and bid process, the need for a comprehensive plan (Climate Action Plan), consultant interview process, Vice mayor Campbell, Mayor Patterson, and Council Member Schwartzman disclosed ex-parte communications, renewable energy at City Hall, and using a wider approach.

Appellant:

Grant Cooke, Intergy Corporation, explained why he thought Intergy Corporation was the approach that was best suited for the City. He reviewed a PowerPoint presentation (copy on file). He urged Council to accept the leadership and potential that this City deserved.

Council Member Hughes asked if Intergy was a project management or project integration company that then contracts with others for specific projects. Mr. Cook stated that in this example, they were energy efficiency implementers. He discussed the lighting project they are currently doing for the State preschools.

Mayor Patterson discussed concern regarding the process. She was troubled that Council had not heard from any of the other applicants. To be fair, it would need to hear from the other companies. If that is the direction they would be going, that would need to happen.

Council Member Schwartzman and Staff discussed wind study management. He asked Mr. Cooke if he was informed about the actual project. Mr. Cooke stated he was at the meetings and it could have been said.

RESOLUTION 09-85 - A RESOLUTION UPHOLDING THE CITY MANAGER'S DECISION NOT TO EXTEND AN INTERVIEW TO INTERGY CORPORATION FOR THE COMPREHENSIVE RENEWABLE ENERGY PROJECT

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

Designation of League of California Cities Annual Conference voting delegates and alternates and review of League resolutions packet:

Jim Erickson, City Manager, reviewed the staff report.

Council Members discussed their schedules and availability for the conference. Mayor Patterson and Council Member Ioakimedes would be attending the conference.

On motion of Council Member Schwartzman, seconded by Council Member Hughes, to designate Mayor Patterson as the voting delegate and Council Member Ioakimedes as the alternate voting delegate for the League of California Cities Annual Conference, on roll call by the following vote:

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

Noes: None

Council discussed taking action on League of California Cities resolution packet.

Council Member Schwartzman and Staff discussed the social host issue and concerns regarding the foreclosure issue.

INFORMATIONAL ITEMS:

Reports from City Manager:

None

Council Member Committee Reports:

1. Mayor's Committee Meeting - (Mayor Patterson) - Next Meeting Date: Wednesday, August 19, 2009
2. Association of Bay Area Governments (ABAG) - (Mayor Patterson & Vice Mayor Campbell) - Next Meeting Date: October 22, 2009
3. Finance, Audit & Budget Committee - (Vice Mayor Campbell & Council Member Schwartzman) - Next Meeting Date: August 28, 2009
4. League of California Cities - (Mayor Patterson & Council Member Schwartzman) - Next Meeting Date: Annual Conference and Exposition - September 16-18, 2009 San Jose Convention Center
5. School Liaison Committee - (Council Members Ioakimedes & Hughes) - Next Meeting Date: August 19, 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: September 24, 2009
8. Solano Transportation Authority (STA) - (Mayor Patterson & Council Member Schwartzman) - Next Meeting Date: September 9, 2009
9. Solano Water Authority/Solano County Water Agency and Delta Committee - (Mayor Patterson & Vice Mayor Campbell) - Next Meeting Date: September 10, 2009
10. Traffic, Pedestrian and Bicycle Safety Committee - (Vice Mayor Campbell & Council Member Hughes) - Next Meeting Date: October 15, 2009
11. Tri-City and County Regional Parks and Open Space - (Vice Mayor Campbell & Council Member Hughes) - Next Meeting Dates: September 21, 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: August 26, 2009
14. ABAG/CAL FED Task Force/Bay Area Water Forum - (Mayor Patterson) - Next Meeting Date: August 24, 2009

COUNCIL MEMBER REPORTS:

Request to agendize consideration of the establishment of a process for expressing Mayor & Council support of legislation:

Mayor Patterson reviewed the Council report.

On motion of Vice Mayor Campbell, seconded by Council Member Schwartzman, Council agreed to agendize the issue on a future agenda, on roll call by the following vote:

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

Noes: None

ADJOURNMENT:

Mayor Patterson adjourned the meeting at 10:40 p.m.

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Lisa Wolfe, City Clerk