

MINUTES OF THE
SPECIAL MEETING – CITY COUNCIL
SEPTEMBER 2, 2008

The special meeting of the City Council of the City of Benicia was called to order by Mayor Elizabeth Patterson at 6:01 p.m. on Tuesday, September 2, 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:

Mayor Patterson 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).

INFORMATIONAL ITEMS:

Review status of plans and financing options for Library and Community Center Projects:
Jim Erickson, City Manager, introduced the agenda item and reviewed the staff report and a PowerPoint presentation on the titled 'Project Funding Options' (hard copy on file).

Community Center Project:

Mike Alvarez, Parks and Community Services Director, introduced the Benicia Community Center Project. Mario Giuliani, Management Analyst, reviewed a PowerPoint presentation titled 'Benicia Community Center' (hard copy on file).

Council and Staff discussed the current lease options for the Mills Elementary School site, current agreements between the City and the Boy Scouts and Girl Scouts, the work that has been done at the Mills site to date, original estimate for renovations that needed to be done at the Mills site, why the cost jumped from \$1 million to over \$4 million, moving the Parks and Community Services department to the Community Center, vehicular traffic concerns, infill development, parking costs, opportunities for transit to the Community Center, the need to provide parking for the Community Center, the need to adopt regulations for the Community Center (including noise regulations), LEED Certification, the need for plans for the current Youth Activity Center, and inquiries regarding financing and interest.

Library Basement Project:

Diane Smikahl, Library Director, reviewed the staff report.

Rob Sousa, Finance Director, and Mark Pressman, Wulff, Hansen & Co., reviewed a PowerPoint presentation titled 'Financing Options' (hard copy on file).

Council and Staff discussed the budget, how much money has been spent to date (approximately \$36,000), Utility User's Tax, revenue bonds, the need for additional time to review this agenda item, having the Audit and Finance Committee take a look at this issue, and the possibility of looking at a combination of funding options.

OPPORTUNITY FOR PUBLIC COMMENT:

WRITTEN:

PUBLIC COMMENT:

1. Marilyn Bardet – Ms. Bardet discussed the cultural vision of the projects and the project costs.
2. Rick Ernst – Mr. Ernst discussed the lack of a comprehensive transportation plan, the possibility of swapping the Mills site and Robert Semple Elementary School site for the Community Center project, parking concerns, concerns over raising taxes, and the suggestion to finish the Library Basement Project.

Council and Staff discussed creating an ad hoc subcommittee that would include the stakeholders and two Council Members, which Council Members should be on the ad hoc subcommittee (Mayor Patterson and Council Member Schwartzman), the budgeted costs for the Community Center Project, the recent recommendation of the Audit and Finance Committee regarding financing the project, the inclusion of LEED Certification and solar, the need to solicit more information from an informed public, and the need to conduct the meetings in the evenings.

On motion of Council Member Hughes, seconded by Council Member Schwartzman, Council directed Staff to complete the preparation of plans and specification for the Community Center Project, Library Basement Project, including LEED Certification, on roll call by the following vote:

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

Noes: None

On motion of Mayor Patterson, seconded by second by Vice Mayor Campbell, Council approved the formation of an ad hoc subcommittee comprised of Staff, Mr. Pressman, and two Council Members, 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 8:06 p.m.

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
SEPTEMBER 2, 2008

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Elizabeth Patterson at 8:12 p.m. on Tuesday, September 2, 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:

Charlie Knox 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 January 31, 2011
- Economic Development Board:
One full term to July 31, 2012

APPOINTMENTS:

RESOLUTION 08-95 - A RESOLUTION CONFIRMING THE MAYOR'S
APPOINTMENT OF RON MYSKA TO THE ECONOMIC DEVELOPMENT BOARD
TO A FULL TERM ENDING
JULY 31, 2012

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

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

Noes: None

PRESENTATIONS:

None

PROCLAMATIONS:

- Recognition of Celebration Days at the Benicia Historical Museum from September 5-7, 2008:
- Recognition of Bonnie Weidel Taylor, Benicia Community Arts:
- Recognition of Literacy Awareness Day – September 8, 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:

Heather McLaughlin, City Attorney, addressed the written public comment submitted by the Green Gateway Group. The Seeno public hearing has been closed. Written public comment could not be used in Council's decision-making process, except to the extent that it relates to traffic. She cautioned Council earlier about meeting with individuals about the Seeno Project, since that could leave the City vulnerable to legal challenge.

Council and Staff discussed the submission of the information, legal issues regarding Council using the information to make decisions on the Seeno Project, having this issue as a specific point to discuss at the October meeting, clarifying what is new and what has been consolidated into a single document of information that was received, and Council Members' ability to recuse themselves during public comment.

PUBLIC COMMENT:

1. Kimble Goodman – Mr. Goodman discussed the upcoming Benicia Bicycle Club race and events and thanked City Staff for their assistance in setting up the race.
2. Roger Straw, Green Gateway Group – Mr. Straw discussed the information Green Gateway Group submitted to the City (hard copy on file).
3. Susan Street, Green Gateway Group – Ms. Street discussed the information Green Gateway Group submitted to the City (hard copy on file).

Council asked Ms. Street if the Green Gateway Group had met with Discovery Builders (it had not). Council discussed backroom politics, and the suggestion to save the discussion on this until after the Seeno item is heard.

4. Rick Ernst - Mr. Ernst discussed concerns regarding increasing taxes to finance capital projects.
5. Nicole Byrd – Ms. Byrd discussed the issue of specific plans.
6. Marilyn Bardet – Ms. Bardet announced an upcoming public forum that will be held by Benicia First.

Council asked Ms. Bardet if Benicia First had sent Discovery Builders an invitation to the forum (they had not yet, but will be doing so.)

7. Joe Kearns – Mr. Kearns discussed recent interactions and concerns regarding the Benicia Police Department.

CONSENT CALENDAR:

Council pulled items VII-A and VII-F.

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

ORDINANCE 08-05 - AN ORDINANCE AMENDING TITLE 2 (ADMINISTRATION AND PERSONNEL) AND SECTION 4.20.010 (OPEN GOVERNMENT COMMISSION) OF CHAPTER 4.20 (OPEN GOVERNMENT COMMISSION) OF TITLE 4 (OPEN GOVERNMENT) OF THE BENICIA MUNICIPAL CODE TO STANDARDIZE THE GENERAL RULES FOR BOARDS AND COMMISSIONS

ORDINANCE 08-06 - AN ORDINANCE ADDING A NEW CHAPTER 12.52 (NEWSRACKS), TO TITLE 12 (STREETS, SIDEWALKS AND PUBLIC PLACES) OF THE BENICIA MUNICIPAL CODE

RESOLUTION 08-98 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING THE MASTER FEE SCHEDULE TO INCLUDE NEWSRACK PERMIT FEES

ORDINANCE 08-07 - AN ORDINANCE AMENDING CHAPTER 8.28 (FIRE PREVENTION AND LIFE SAFETY CODE) IN ITS ENTIRETY OF TITLE 8 (HEALTH AND SAFETY) OF THE BENICIA MUNICIPAL CODE

ORDINANCE 08-08 - AN ORDINANCE AMENDING CHAPTER 15.04 (CALIFORNIA BUILDING CODE) IN ITS ENTIRETY OF TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE BENICIA MUNICIPAL CODE

ORDINANCE 08-09 - AN ORDINANCE AMENDING SECTION 15.08.010 (ADOPTION BY REFERENCE) AND SECTION 15.08.020 (COPIES ON FILE) OF CHAPTER 15.08 (CALIFORNIA MECHANICAL CODE) OF TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE BENICIA MUNICIPAL CODE

ORDINANCE 08-10 - AN ORDINANCE AMENDING CHAPTER 15.12 (CALIFORNIA PLUMBING CODE) IN ITS ENTIRETY OF TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE BENICIA MUNICIPAL CODE

ORDINANCE 08-11 - AN ORDINANCE AMENDING SECTION 15.16.010 (ADOPTION BY REFERENCE) AND SECTION 15.16.020 (COPIES ON FILE) OF

CHAPTER 15.16 (CALIFORNIA ELECTRICAL CODE) OF TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE BENICIA MUNICIPAL CODE

ORDINANCE 08-12 - AN ORDINANCE DELETING CHAPTER 15.18 (UNIFORM HOUSING CODE) OF TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE BENICIA MUNICIPAL CODE

ORDINANCE 08-13 - AN ORDINANCE DELETING CHAPTER 15.20 (UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS) OF TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE BENICIA MUNICIPAL CODE

ORDINANCE 08-14 - AN ORDINANCE DELETING CHAPTER 15.22 (ADMINISTRATIVE CODE) OF TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE BENICIA MUNICIPAL CODE

ORDINANCE 08-15 - AN ORDINANCE AMENDING CHAPTER 15.24 (WORK/LIVE OCCUPANCY CODE) IN ITS ENTIRETY OF TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE BENICIA MUNICIPAL CODE

ORDINANCE 08-16 - AN ORDINANCE AMENDING CHAPTER 15.26 (BUILDING PERMIT FEES AND OTHER FEES) IN ITS ENTIRETY OF TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE BENICIA MUNICIPAL CODE

RESOLUTION 08-96 - A RESOLUTION DECLARING THE CITY'S INTENTION TO VACATE A PORTION OF WEST K STREET RIGHT-OF- WAY ADJACENT TO 1356 WEST K STREET AND SETTING THE PUBLIC HEARING DATE FOR OCTOBER 7, 2008

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 August 19, 2008:

Mayor Patterson requested her comments explaining her vote on the transit item be added to the minutes.

On motion of Council Member Hughes, seconded by Vice Mayor Campbell, the Minutes of August 19, 2008 were approved as presented, on roll call by the following vote:

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

Noes: None

Approval of change orders for Commandant's Rehabilitation Project:

Vice Mayor Campbell asked for clarification on change order #8.

Staff discussed the six-foot beam that cracked in half, causing more pressure on the second six-foot beam, which caused the floor to sag. The change order was for the replacement of the two six foot beams.

RESOLUTION 08-97 - A RESOLUTION AUTHORIZING THE DIRECTOR OF PARKS & COMMUNITY SERVICES TO EXECUTE CONTRACT CHANGE ORDERS WITH PACIFIC COAST RECONSTRUCTION & BUILDING INC. FOR THE COMMANDANT'S REHABILITATION PROJECT, AFFIRMING STAFF-AUTHORIZED CHANGE ORDERS AND APPROPRIATING \$94,333 FROM THE CONTINGENCY OF THIS PROJECT

On motion of Vice Mayor Campbell, 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

PUBLIC HEARINGS:

None

ACTION ITEMS:

Valero Improvement Project Settlement - continued from August 19, 2008 City Council Meeting:

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

Council and Staff discussed the Lighting and Landscaping District's need for plants, equipment, irrigation, etc.

Public Comment:

1. Chris Howe, Valero Refinery, Benicia – Mr. Howe thanked everyone on the Good Neighbor Steering Committee for their efforts. He briefly discussed Valero's idea on what the money should be spent on and the importance for using the money to improve the community and make a positive impact,
2. Dana Dean – Ms. Dean asked for clarification on the agenda item previously being listed as an informational item which was continued and has become an action item, the process that the Good Neighbor Steering Committee went through with regards to the VIP, and the need for public input on how the money is spent.

Council and Ms. Dean discussed the agreement between Valero and the Good Neighbor Steering Committee, how the Good Neighbor Steering Committee envisioned the plan for the money being spent, accountability, reporting, Good Neighbor Steering Committee's expectation to participate in the community process, the need to explore what form of public input would work best, possibly having a sustainability conference, Valero's positive reputation, using a timed released approach, accountability, public access to information, and routine reporting through the Citizens Advisory Panel (CAP).

3. Marilyn Bardet – Ms. Bardet discussed the Good Neighbor Steering Committee, air monitoring, the importance of deciding how the monies should be spent, drip irrigation, low flow toilets, ways to engage the citizens in programs for water conservation.
4. Bob Craft – Mr. Craft discussed his confidence in Valero, Ms. Dean, and Ms. Bardet, and the need for including Ms. Dean and Ms. Bardet in the process for deciding how the money is spent.
5. Joe Kearns – Mr. Kearns discussed concerns and ideas regarding how the money should be spent.

Council and Staff discussed the need for a public process, forming a committee with Staff, Council, and the Good Neighbor Steering Committee, climate action plan, loans for solar panels, purple pipes, synthetic field at BHS, reporting to the Bay Area Air Quality Management District, monitoring costs, the need to thank and recognize the parties involved, not taking action on the agenda item tonight, bringing the item back after taking the various comments into consideration, and the need to involve the community in this issue.

On motion of Council Member Hughes, seconded by Council Member Schwartzman, Council directed Staff to meet with the Good Neighbor Steering Committee (and possibly Valero) and come back to Council with a formal process that ensures public process, on roll call by the following vote:

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

Noes: None

Authorize exclusive negotiating rights agreement with the Olson Company for the City-owned E Street lot:

Council Member Schwartzman recused himself due to a conflict of interest.

Amalia Lorentz, Economic Development Manager, reviewed the staff report.

Council and Staff discussed the desire to add ‘cultural’ to the list of possible uses for the project, including cultural and wetlands on the project work plan, adding LEED and/or Low Impact Development standards for the project, the lack of Downtown parking spaces, use permits, and compliance with State and local regulations regarding low income housing.

Public Comment:

1. John Reichel, Olson Company – Mr. Reichel discussed the Olson Company’s eagerness to work with the City.

Council, Staff, and Mr. Reichel discussed the issue of public parking, zoning, the Downtown Mixed Use Master Plan, and the issue of having a community process.

On motion of Council Member Hughes, seconded by Council Member Ioakimedes, Council authorized the City Manager to enter into an Exclusive Negotiating Rights Agreement (ENRA) with the Olson Company to act as its development partner and lead the community involvement process for the City-owned E Street lot, as amended, on roll call by the following vote:

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

Noes: None

Abstain: Council Member Schwartzman

Reaffirm the purpose of the Sky Valley Open Space Committee:

Charlie Knox, Community Development Director, informed Council that the Sky Valley Open Space Committee Chair was unable to attend the Council meeting due to an illness in the family. He requested the agenda item be continued to the next meeting.

Public Comment:

None

On motion of Council Member Schwartzman, seconded by Council Member Hughes, Council agreed to continue this item to a future agenda, on roll call by the following vote:

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

Noes: None

Approval of AT&T permit application and review process for U-Verse service (Project Lightspeed):

Dan Schiada, Public Works Director, reviewed the staff report.

Council Member Hughes disclosed ex parte communications.

Council and Staff discussed the placement process for the cabinets, and clarification on the benefits of the cabinets to the community.

Mr. Tim Ray, AT&T, discussed the benefits that this technology would provide to the community and the level of noise the cabinets would generate.

Council, Staff, and Mr. Ray discussed the technology, competition, rates, public notification process, using door hanger notices, and the process for contacting property owners.

Public Comment:

1. Jackie Klare – Ms. Klare discussed concerns regarding big ugly boxes being placed near her property, current City ordinances regarding above ground utility boxes, and her options if she does want this to be placed on her property.
2. Eldon Peterson – Mr. Peterson discussed concerns regarding the installation of the boxes in Benicia, installing underground technology, a recent article in the Contra

Costa Times newspaper (copy on file), and the need for high speed internet in the Benicia Industrial Park.

3. Rick Ernst – Mr. Ernst discussed concerns regarding the installation of the boxes in Benicia, getting high speed internet in the Benicia Industrial Park, and the issue of noticing.
4. Bob Craft – Mr. Craft inquired where the boxes would be installed throughout the City.
5. Marilyn Bardet – Ms. Bardet inquired where the ten units would be installed that they have applied for the permit for.
6. Gene Doherty – Mr. Doherty discussed the advantage of fiber to the premise as opposed to fiber to the node, faster internet speed, and the need for high speed internet in the Benicia Industrial Park.

Council and Staff discussed the Benicia Industrial Park, the size of the cabinets, notification process, the existing ordinance regarding underground utility boxes, cleaning up the language on the existing ordinance, and why the current ordinance was enacted.

Public Comment:

1. Mr. Ray, AT&T – Mr. Ray discussed the lack of ability to install such devices underground, what types of technology could be installed underground, graffiti proof coating for the boxes, size of the boxes, and noticing requirements.

Council, Staff, and Mr. Ray discussed identifying the location of the proposed 60 boxes (AT&T would make the information available to the City in the next few weeks.), the lack of high speed internet in the Benicia Industrial Park, having five test spots in the Benicia Industrial Park, welcoming competition, the need for more information, and the need to move slower with this issue.

Mayor Patterson suggested continuing this item so that Staff could look into San Francisco's situation – to see what authority they are using, to revisit the City's code and provide a legal defense in a staff report, to add removal provisions, to come back with a map, to get specific proposed locations, and the need for an aesthetic solution to the boxes.

INFORMATIONAL ITEMS:

Reports from City Manager:

Continued

Update from the Police Chief regarding public safety statistics and comparisons –

Continued from August 19, 2008 City Council Meeting:

Continued

Analysis of the Graffiti Ordinance:

Continued

COMMENTS FROM COUNCIL MEMBERS:

Request to agendize discussion of the need for an ordinance regarding properties in foreclosure:

Continued

ADJOURNMENT:

Mayor Patterson adjourned the meeting at 11:31 p.m.

Lisa Wolfe, City Clerk