

MINUTES OF THE  
REGULAR MEETING – CITY COUNCIL  
September 03, 2013

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

**I. CALL TO ORDER:**

Mayor Patterson called the Closed Session to order at 6:00 p.m.

All Council Members were present.

**II. CLOSED SESSION:**

**A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION  
(Subdivision (b) of Government Code Section 54957)  
Title: City Attorney**

**B. CONFERENCE WITH REAL PROPERTY NEGOTIATOR  
Property: 3300 Park Road & 3190 Bayshore Road  
Negotiating Parties: City Attorney, City Manager and Economic  
Development Manager  
Under Negotiation: Instruction to negotiator on both payment and  
lease terms**

**III. CONVENE OPEN SESSION**

Mayor Patterson called the Open Session to order at 7:00 p.m.

**A. ROLL CALL**

All Council Members were present.

**B. PLEDGE OF ALLEGIANCE**

Barbara Maddox led the Pledge of Allegiance.

**C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC.**

**IV. ANNOUNCEMENTS/PROCLAMATIONS/APPOINTMENTS/PRESENTATIONS:**

**A. ANNOUNCEMENTS**

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

Ms. McLaughlin reported the following actions:

II.A - Council conducted the City Attorney's performance evaluation.

II.B - Council gave Staff direction on payment and lease terms.

**2. Openings on Boards and Commissions:**

Arts and Culture Commission

1 unexpired term

Open until filled

Human Services Board

1 full term

Open until filled

Open Government Commission

1 full term

Open until filled

Community Sustainability Commission (Student Commissioner)

1 full term

Open until filled

**3. Mayor's Office Hours**

**4. Benicia Arsenal Update**

Verbal update from City Attorney

Nothing new to report.

**B. PROCLAMATIONS**

**1. IN RECOGNITION OF SOFIT CITY'S RUN THIS TOWN 2013**

**2. IN RECOGNITION OF NATIONAL PREPAREDNESS MONTH -  
SEPTEMBER 2013**

**3. IN RECOGNITION OF INTERNATIONAL LITERACY DAY -  
SEPTEMBER 8, 2013**

**4. IN RECOGNITION OF NATIONAL VOTER REGISTRATION DAY -  
SEPTEMBER 24, 2013**

## C. APPOINTMENTS

### 1. Appointment of J. Reed Robbins to the Historic Preservation Review Commission to an unexpired term ending July 31, 2016.

Mayor Patterson stated that Council had received some correspondence recently. She had the opportunity to have a dialogue regarding the appointment of J. Reed Robbins (who is very qualified). At this moment, she would like to withdraw her appointment for the time being.

### 2. Appointment of Alison Fleck to the Parks, Recreation & Cemetery Commission for a four year term ending July 31, 2017.

#### **RESOLUTION 13-79 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF ALISON FLECK TO THE PARKS, RECREATION & CEMETERY COMMISSION TO AN UNEXPIRED TERM ENDING JULY 31, 2016**

Council discussed concerns regarding the subcommittee's lack of support for the appointment.

#### Public Comment:

None

On motion of Mayor Patterson Council adopted Resolution 13-79, on roll call by the following vote:

Ayes: Patterson, Strawbridge, Hughes

Noes: Schwartzman, Campbell

## D. PRESENTATIONS

### 1. CLEAN WATER PERMIT

## V. ADOPTION OF AGENDA:

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

Ayes: Patterson, Strawbridge, Hughes, Schwartzman, Campbell

Noes: (None)

**VI. OPPORTUNITY FOR PUBLIC COMMENT:**

**A. WRITTEN COMMENT**

Various items received (copies on file).

**B. PUBLIC COMMENT**

1. Bonnie Silveria - Ms. Silveria discussed the success of the Relay for Life event last week. She encouraged Council and the public to participate in next year's event on 8/25/14.

**VII. CONSENT CALENDAR:**

Council pulled items VII.A and VII.F for discussion.

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

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

**A. APPROVAL OF THE MINUTES OF THE AUGUST 20, 2013 CITY COUNCIL MEETING**

Council Member Strawbridge requested her comments regarding matching funds and the need to act quickly be inserted into the minutes.

Council Member Hughes clarified that he would abstain, as he was absent from the meeting.

Public Comment:

None

On motion of Council Member Schwartzman, seconded by Council Member Strawbridge, Council adopted the Minutes of the August 20, 2013 City Council Meeting, as amended, on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Campbell  
Noes: (None)

- B. ACCEPTANCE OF A CALIFORNIA LIBRARY LITERACY SERVICES (CLLS) LITERACY AWARD FOR 2013/14 AND AUTHORIZATION FOR THE LIBRARY DIRECTOR TO SIGN ANY NECESSARY DOCUMENTS TO SECURE ADDITIONAL GRANT FUNDING

**RESOLUTION 13-80 - A RESOLUTION AUTHORIZING SUBMITTAL OF AN APPLICATION FOR A CALIFORNIA LIBRARY LITERACY SERVICE MATCHING FUNDS GRANT FOR FISCAL YEAR 2013-14 AND AUTHORIZING THE APPROPRIATION OF FUNDS FOR THE LIBRARY'S STATE FUNDED LITERACY ACCOUNT**

- C. SECOND READING AND ADOPTION OF AN ORDINANCE TO DISSOLVE THE DESIGN REVIEW COMMISSION, REPEAL CHAPTER 2.92 (DESIGN REVIEW COMMISSION) OF TITLE 2 (ADMINISTRATION AND PERSONNEL) OF THE BENICIA MUNICIPAL CODE, AND TRANSFER ANY RESIDUAL POWER TO THE HISTORIC PRESERVATION REVIEW COMMISSION

**ORDINANCE 13-07 - AN ORDINANCE DISSOLVING THE DESIGN REVIEW COMMISSION, REPEALING CHAPTER 2.92 (DESIGN REVIEW COMMISSION) OF TITLE 2 (ADMINISTRATION AND PERSONNEL) OF THE BENICIA MUNICIPAL CODE AND TRANSFERRING ANY RESIDUAL POWER TO THE HISTORIC PRESERVATION REVIEW COMMISSION**

- D. SECOND READING AND ADOPTION OF AN ORDINANCE TO DISSOLVE THE INDUSTRIAL DEVELOPMENT AUTHORITY, REPEAL CHAPTER 2.88 (INDUSTRIAL DEVELOPMENT AUTHORITY) OF TITLE 2 (ADMINISTRATION AND PERSONNEL) OF THE BENICIA MUNICIPAL CODE AND TRANSFER ANY RESIDUAL POWER TO THE CITY COUNCIL

**ORDINANCE 13-08 - AN ORDINANCE DISSOLVING THE INDUSTRIAL DEVELOPMENT AUTHORITY, REPEALING CHAPTER 2.88 (INDUSTRIAL DEVELOPMENT AUTHORITY) OF TITLE 2 (ADMINISTRATION AND PERSONNEL) OF THE BENICIA MUNICIPAL CODE AND TRANSFERRING ANY RESIDUAL POWER TO THE CITY COUNCIL**

- E. SECOND READING AND ADOPTION OF AN ORDINANCE TO DISSOLVE THE MOBILE HOME RENT REVIEW COMMISSION, REPEAL CHAPTER 2.72 (MOBILE HOME RENT REVIEW COMMISSION) OF TITLE 2 (ADMINISTRATION AND PERSONNEL) OF THE BENICIA MUNICIPAL CODE AND TRANSFER ANY RESIDUAL POWER TO THE CITY COUNCIL

**ORDINANCE 13-09 - AN ORDINANCE DISSOLVING THE MOBILE HOME**

**RENT REVIEW COMMISSION, REPEALING CHAPTER 2.72 (MOBILE HOME RENT REVIEW COMMISSION) OF TITLE 2 (ADMINISTRATION AND PERSONNEL) OF THE BENICIA MUNICIPAL CODE AND TRANSFERRING ANY RESIDUAL POWER TO THE CITY COUNCIL**

- F. INTRODUCTION AND FIRST READING OF AN ORDINANCE TO ADD SECTION 8.24.260 (OWNERSHIP OF REFUSE, GREEN WASTE, AND RECYCLABLES) TO CHAPTER 8.24 (REFUSE MATTER DISPOSAL) OF TITLE 8 (HEALTH AND SAFETY) OF THE BENICIA MUNICIPAL CODE**

**ORDINANCE 13- - AN ORDINANCE TO ADD SECTION 8.24.260 (OWNERSHIP OF REFUSE, GREEN WASTE, AND RECYCLABLES) TO CHAPTER 8.24 (REFUSE MATTER DISPOSAL) OF TITLE 8 (HEALTH AND SAFETY) OF THE BENICIA MUNICIPAL CODE**

Council Member Schwartzman and Ms. McLaughlin discussed the lack of 'whereas' in the proposed ordinance. Council Member Schwartzman suggested adding two 'whereas' to paragraph two, under background. 'Whereas the act of removing materials from refuse containers can result in crime, as it can be used as a cover for criminals to enter and wander around neighborhoods and commercial development without suspicion, and whereas this behavior can also lead to identity theft if a resident places sensitive information into the refuse containers.'

Council Member Strawbridge and Staff discussed how this would work with businesses or individuals who set aside recycling (such as bottles) for individuals to pick up. Staff confirmed that the current practice could continue, as this is geared towards individuals who are wandering through neighborhoods and businesses.

**Public Comment:**

None

On motion of Council Member Schwartzman, seconded by Council Member Strawbridge, Council approved the Introduction and First Reading of the above Ordinance, as amended, on roll call by the following vote:

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

- G. DENIAL OF THE CLAIM AGAINST THE CITY BY CANDICE GARNETT AND REFERRAL TO INSURANCE CARRIER**
- H. AUTHORIZE PURCHASE OF THREE (3) REPLACEMENT POLICE PATROL VEHICLES**

**RESOLUTION 13-81 - A RESOLUTION AUTHORIZING THE PURCHASE OF THREE (3) REPLACEMENT POLICE PATROL VEHICLES UTILIZING VEHICLE REPLACEMENT FUNDS**

- I. **AWARD OF CONSTRUCTION CONTRACT FOR THE KEARNEY STREET PRESSURE REDUCING STATION AND DETERMINATION THE PROJECT IS CATEGORICALLY EXEMPT FROM CEQA**

**RESOLUTION 13-82 - A RESOLUTION ACCEPTING BIDS FOR THE KEARNEY STREET PRESSURE REDUCING STATION, DETERMINING THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AWARDING THE CONSTRUCTION CONTRACT TO ATLAS PEAK CONSTRUCTION IN THE AMOUNT OF \$151,100, AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONTRACT ON BEHALF OF THE CITY**

- J. **DENIAL OF THE CLAIM AGAINST THE CITY BY DANIEL AND RENE DUFFIELD AND REFERRAL TO INSURANCE CARRIER**
- K. **YOUTH CENTER ROOF REPLACEMENT**

**RESOLUTION 13-83 - A RESOLUTION AUTHORIZING THE PURCHASE AND INSTALLATION OF ROOFING MATERIAL ON THE YOUTH CENTER IN THE AMOUNT OF \$38,000 ALLOCATED FROM THE FACILITY MAINTENANCE FUND**

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

**VIII. BUSINESS ITEMS:**

- A. **AMENDMENT OF THE COUNCIL'S RULES OF PROCEDURES REGARDING THE APPOINTMENT PROCESS**

Heather McLaughlin, City Attorney, reviewed the staff report.

Council Member Hughes and Staff discussed how Council could have a discussion on the applicants in an open meeting. They discussed whether the Mayor could allow council members to make appointments.

Vice Mayor Campbell and Staff discussed how it could be awkward to discuss concerns or comments on applicants during an open meeting.

Mayor Patterson discussed the current structure of the elected mayors in Solano County. Mayor Patterson and Staff discussed the appointment process in

Danville, Ca.

Vice Mayor Campbell discussed the appointment process in the City of Danville, Ca.

Public Comment:

1. Ellen Kolowich - Ms. Kolowich spoke in opposition to the appointments being made during a public meeting. It would dissuade people from applying. She suggested conducting interviews during closed session meetings.
2. Bonnie Silveria - Ms. Silveria discussed the various interview processes that have been used over the years. She spoke in support of having the applicants interviewed in an open meeting that is not broadcast on television.

Council Member Schwartzman discussed the current process. He discussed seven different options Council could take.

Council Member Hughes discussed why he liked the current process. He discussed concerns regarding conducting interviews in a public setting, as the applicants and council members would not be as relaxed or comfortable. He discussed an option where if the Mayor's appointment did not pass, one of the subcommittee members could offer another appointment to be voted on.

Council Member Strawbridge discussed concerns regarding the current process. She discussed leaning toward option #3. She asked if there would be public comment during option #3. It could be an opportunity for Council to come to a consensus on appointments.

Vice Mayor Campbell and Staff discussed Council Member Hughes' suggestion.

Mayor Patterson discussed Council Member Schwartzman's suggestion to have the subcommittee's recommended appointments included in the agenda packet, along with the Mayor's appointment. Ms. McLaughlin clarified that it would have to be done so that the mayor did not see the recommendations prior to the agenda packet being published. That way everyone would see the recommendations at the same time.

Council Member Hughes discussed the need for consistent questions for all candidates; however he was unsure about having criteria. It should come down to who is the best fit.

Mayor Patterson clarified that she did not intend for a formal adoption of criteria. The most formal thing Council has is the statement that is ahead of the

application.

Council Member Strawbridge discussed oral vs. written explanation of why the subcommittee makes the recommendations they do. Council needs to have reasons as to why the subcommittee makes the recommendations in one form or another.

Vice Mayor Campbell and Council Member Schwartzman discussed support for verbal explanations as opposed to written explanations on why the subcommittee makes the recommendations.

Mr. Kilger asked for clarification on the process. The names would be posted in the agenda. The justification for the recommendations would be done verbally at the Council meetings.

Mayor Patterson discussed possibly saying that 'it is the discretion of the subcommittee to provide a brief explanation, but it was not mandatory'. It could be said that it is preferred that a reason be provided, but it would be discretionary.

Council Member Schwartzman discussed support for oral explanations, so that everyone hears the reasons at the same time.

Council Member Schwartzman made a motion to adopt the resolution, with the following changes: 1) on page VIII.A.16 - change it from 'shall recommend' to 'may recommend', 2) eliminate the sentence regarding the subcommittee providing comments to the mayor, 3) add the sentence 'the subcommittee may present oral reasoning during the meeting', 4) strike the entire section regarding applicant being acceptable to the Mayor, and 5) add that the subcommittee recommendations will be made public on the council agenda.

Mayor Patterson clarified she would like the language to be that the subcommittee's recommendations would be in the Council agenda packet.

Council Member Strawbridge discussed the need to keep the voting order with the subcommittee going first, as that is the only way Council would hear their reasoning for the recommendations they made prior to the other Council Member's votes.

Mayor Patterson gave direction to Staff to provide Council with two options for a future resolution (oral comments or written comments) regarding the subcommittee's recommendations.

On motion of Council Member Schwartzman, seconded by Council Member Hughes, Council approved the above direction to Staff, on roll call by the following vote:

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

**B. RESOLUTION TO MODIFY THE MEETING SCHEDULE OF THE SKY VALLEY OPEN SPACE COMMITTEE TO MEET ON AN "AS-NEEDED" BASIS**

**RESOLUTION 13-84 - A RESOLUTION AMENDING EXHIBIT A OF THE SKY VALLEY OPEN SPACE COMMITTEE RESOLUTION NO. 04-68**

Heather McLaughlin, City Attorney, reviewed the staff report.

Council Member Strawbridge and Staff discussed who would determine the need to meet 'as needed.'. Staff and Mayor Patterson clarified that the chairperson would consult with Staff. Staff would then work it out. The committee would have the meeting, and Staff would keep track of hours and stay within the budget.

Public Comment:

None

On motion of Council Member Hughes, seconded by Council Member Strawbridge, Council adopted Resolution 13-84, on roll call by the following vote:

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

**IX. ADJOURNMENT:**

Mayor Patterson adjourned the meeting at 8:53 p.m.

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Lisa Wolfe, City Clerk