

MINUTES OF THE  
REGULAR MEETING – CITY COUNCIL  
September 04, 2012

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 meeting to order at 7:00 p.m.

**II. CLOSED SESSION:**

**III. CONVENE OPEN SESSION:**

**A. ROLL CALL**

All Council Members were present.

**B. PLEDGE OF ALLEGIANCE**

Larnie Fox led the Pledge of Allegiance.

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

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

**A. ANNOUNCEMENTS**

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

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

Building Board of Appeals 1 full term Open Until Filled

SolTrans Public Advisory Committee 1 full term Open Until Filled

Historic Preservation Review Commission 1 full term Open Until Filled

Art and Culture Commission 2 unexpired terms Open Until Filled

Planning Commission 1 Full Term Open Until Filled

**3. Mayor's Office Hours:**

**4. Benicia Arsenal Update: Verbal Update**

**B. APPOINTMENTS**

**C. PRESENTATIONS**

**D. PROCLAMATIONS**

**1. In Recognition of International Literacy Day**

**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, Schwartzman, Campbell, Hughes

Noes: (None)

**VI. OPPORTUNITY FOR PUBLIC COMMENT:**

**A. WRITTEN COMMENT**

None

**B. PUBLIC COMMENT**

None

**VII. CONSENT CALENDAR (7:30 PM):**

Council pulled items VII.B, VII.C, and VII.D for discussion.

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

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes

Noes: (None)

- A. Due to technical difficulties with the Sire Minutes Plus Software, the minutes from the August 21, 2012 meeting are not currently available. They should be on the next regular meeting agenda. (City Clerk)**

**B. APPROVAL OF AN AMENDMENT TO A LEASE AGREEMENT FOR A WIRELESS COMMUNICATION FACILITY AT CITY RESERVOIR 1 SITE WITH STC FIVE, LLC**

**RESOLUTION 12-106 - A RESOLUTION APPROVING AN AMENDMENT TO THE LEASE AGREEMENT BETWEEN THE CITY OF BENICIA AND STC FIVE, LLC, A DELAWARE LIMITED LIABILITY COMPANY, FOR A WIRELESS COMMUNICATION FACILITY AT 1471 PARK ROAD, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT ON BEHALF OF THE CITY**

Council Member Hughes and Staff discussed how the City knew whether this was a good lease agreement. They discussed whether Staff compared the agreement with other companies' agreements.

Public Comment

None

On motion of Council Member Strawbridge, seconded by Council Member Hughes, Council adopted Resolution 12-106, on roll call by the following vote:  
Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes  
Noes: (None)

**C. SECOND READING OF ORDINANCE AMENDING MEETING LOCATION FOR REGULAR CITY COUNCIL MEETINGS**

**ORDINANCE 12-5 - AN ORDINANCE AMENDING SUBSECTION B OF SECTION 2.04.010 (MEETING TIME AND PLACE) OF CHAPTER 2.04 (CITY COUNCIL) OF TITLE 2 (ADMINISTRATION AND PERSONNEL) OF THE BENICIA MUNICIPAL CODE IS AMENDED TO DESIGNATE THE MEETING LOCATION FOR THE FOURTH TUESDAY REGULAR MEETINGS**

Vice Mayor Campbell discussed concerns regarding the meetings not being recording, changing the priority lists, and the meetings not being as accessible to the public.

Council Member Schwartzman discussed concerns raised to him by citizens regarding the lack of internet broadcasting of the meeting. He and Staff discussed other broadcasting options Staff had looked into. Staff confirmed that Council Chambers is available on the fourth Tuesday.

Council Member Hughes discussed the informal atmosphere Council and Staff were trying to achieve with the workshops. He was not sure the low attendance of the last workshop was linked to the location, but rather the items on the agenda.

Mayor Patterson discussed support for the workshop setting. She suggested

giving it a 3-month trial period to see if the public could get used to it, or if the video recording could be worked out at the Community Center. If the kinks are not worked out in three months, Council could revisit returning to the Council chambers for the fourth Tuesday meeting.

Vice Mayor Campbell and Staff clarified that Council's Rules of Procedure didn't change, regardless of where the meeting was held.

Council Member Hughes discussed how nervous some people feel when they have to get up and speak at the podium. He felt the relaxed environment was more conducive to a workshop atmosphere. People are more likely to speak up and speak.

Public Comment:

1. Jon Van Landschoot - Mr. Van Landschoot spoke in favor of the fourth Tuesday (workshop) meetings being held at the Community Center.

Mayor Patterson directed Staff to pursue video recording options for the fourth Tuesday Council meetings, look into using BUSD boardroom, and add that a 3-month evaluation would be done on the use of the Community Center for the meetings.

On motion of Council Member Hughes, seconded by Council Member Strawbridge, Council adopted Ordinance 12-5, as amended, on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes

Noes: (None)

**D. DENIAL OF CLAIM AGAINST THE CITY BY BOBBY RICHARDSON AND REFERRAL TO INSURANCE CARRIER**

Vice Mayor Campbell inquired what the City's rights were regarding frivolous lawsuits.

Public Comment:

None

Mayor Patterson discussed recent legislature that was passed that strengthens the ability to deal with so-called frivolous lawsuits. She requested the City Attorney report back to Council on that.

On motion of Vice Mayor Campbell, seconded by Council Member Hughes, Council approved the denial of claim against the City by Bobby Richardson, and referral to insurance carrier, on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes

Noes: (None)

**E. GRANTING SIGNATURE AUTHORITY TO SPECIFIED OFFICERS RELATED TO CITY BANK ACCOUNTS**

**RESOLUTION 12-105 - A RESOLUTION AUTHORIZING THE SIGNING AND ENDORSING OF CHECKS AND OTHER FINANCIAL INSTRUMENTS**

On motion of Council Member Schwartzman, seconded by Council Member Hughes, Council adopted Resolution 12-105, on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes

Noes: (None)

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

**VIII. BUSINESS ITEMS:**

**A. INTRODUCTION OF A ZONING ORDINANCE AMENDMENT TO REMOVE REMNANT REFERENCES TO THE FORMER DOWNTOWN COMMERCIAL ZONING DISTRICT**

**ORDINANCE 12- - AN ORDINANCE AMENDING SECTION 17.70.350 (FORMULA BUSINESSES) OF CHAPTER 17.70 (SITE REGULATIONS), OF TITLE 17 (ZONING) OF THE BENICIA MUNICIPAL CODE TO UPDATE THE DEVELOPMENT STANDARDS AND REGULATIONS REFLECTING THE ELIMINATION OF THE CD DOWNTOWN COMMERCIAL ZONING DISTRICT WITH ADOPTION OF THE DOWNTOWN MIXED USE MASTER PLAN**

Amy Million, Principal Planner, reviewed the staff report.

Council Member Schwartzman and Staff discussed the previously approved number of formula based businesses allowed, which he thought was 10, and whether the proposed amendment would change that number. Staff did not believe the limit was 10. It is limited to one formula based business per establishment.

Council Member Hughes and Staff discussed the issue of multiple (duplicate) businesses in one area; he thought the number was 12. He discussed concerns regarding possibly sending businesses away. Staff clarified how 'formula businesses' were defined (more than 4 in the Bay Area).

Ms. McLaughlin looked through the ordinance regarding formula based businesses, and did not see 10 or 12, but did see 4. The definition of a formula based business was if it has four or more establishments in the Bay Area (not Benicia). As Staff previously noted, the City could only have one of those

businesses in one establishment/area. She could go back and look at the original documentation to verify that.

Mr. Knox clarified that when the issue of formula based businesses was previously discussed, he remembered Council talking about 9 or 10, but decided not to put that number in the ordinance because it was felt at the time that by limiting it to no more than one in that area we would not get such proliferation. Also, at that time the discussion was surrounding 'how many total', then it was limited to the Downtown area.

Council Member Schwartzman asked for clarification that the proposed change to the code was only changing the formula based businesses aspect of the code, and that it was not changing the Downtown Mixed Use. Staff confirmed that was correct.

Public Comment:

None

Mayor Patterson requested Staff provide Council with the Planning Commission minutes. She expressed concern regarding the graphics in the staff report. She suggested Staff use PowerPoint presentations when detailed graphics are used.

Vice Mayor Campbell and Staff discussed whether various Council Members would be conflicted out on this item. Staff clarified that no Council Members would be conflicted out, as it was a technical change.

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

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes

Noes: (None)

**B. APPROVAL OF THE BENICIA PUBLIC ART PROGRAM PREPARED BY THE BENICIA ARTS AND CULTURE COMMISSION**

**RESOLUTION 12-107 – A RESOLUTION APPROVING THE BENICIA PUBLIC ART PROGRAM PREPARED BY THE BENICIA ARTS AND CULTURE COMMISSION**

Dian Smikahl, Library Director, reviewed the staff report.

Mayor Patterson and Staff discussed that the direction was to approve this by motion, not resolution. What the process would be for identifying this in the future if the Council changes, and no one remembered? McLaughlin suggested passing this by resolution, and repeal Resolution 90-5. She could draft a resolution that Council could adopt tonight.

Council Member Strawbridge and Staff discussed the language 'may' as opposed to 'will' in the proposed document. They discussed development policy, permitting, etc. Mr. Knox suggested adding 'Staff and the commission will be available to assist the property owner.' He reviewed previous City Council minutes regarding public art in the Downtown area.

Mayor Patterson and Staff discussed the issue of public art with respect to the Harbor Walk Project.

Mr. Kilger discussed the need to flush out some more information regarding how the City treats private development and how those developments would participate in a public art program.

Council Member Hughes and Staff discussed concern regarding restricting what a business might consider as art. He suggested adding 'it will come to City Council for placement' to page VIII.B.20 – authorize the placement of art based on recommendations from the Arts & Culture Commission.

Vice Mayor Campbell and Staff confirmed that the action tonight had to be done by a resolution. Ms. McLaughlin suggested language for the resolution, which Council approved. Mr. Knox suggested referencing 16.32.120 in the resolution (second whereas).

Public Comment:

1. Larnie Fox, Arts Benicia - Mr. Fox spoke in support of the proposed resolution. He suggested the City look into the possibility of temporary public art. He offered Arts Benicia's assistance with this issue.
2. Mayor Patterson suggested adding the issue into the second whereas.
3. Patty Gavin, Benicia Arts & Culture Commission - Ms. Gavin thanked Staff and citizens for their efforts on this.
4. Jon Van Landschoot - Mr. Van Landschoot spoke in favor of the proposed resolution. He inquired when art could be considered as a sign. Staff discussed the need to adhere to size regulations with signs.

Mayor Patterson summarized by stating that the resolution would be replacing the existing resolution, the details were outlined by Staff, with several whereas which include elements of the General Plan, the Strategic Plan, previously adopted resolution, existing ordinance, advice from the Benicia Arts and Culture Commission (its recommendations), and Staff would be adding language in the resolution that deals with temporary art, and the placement of the art. She clarified that the fee issue would not be included, as it was not part of the discussion. Ms. McLaughlin clarified that the last two items would go in the policy, not the resolution.

Mr. Kilger clarified that regarding the question of the fee issue, Staff would

evaluate its current work list and develop a project description, and it would look at how the City would develop impact fees, and bring it back to Council. Staff would work with the Arts and Culture Commission on the issue.

On motion of Council Member Strawbridge, seconded by Council Member Hughes, Council adopted Resolution 12-107, on roll call by the following vote:  
Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes  
Noes: (None)

**IX. ADJOURNMENT:**

Mayor Patterson adjourned the meeting at 8:14 p.m.

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Lisa Wolfe, City Clerk