

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
September 06, 2011

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 7:07 p.m.

II. CLOSED SESSION:

III. CONVENE OPEN SESSION:

A. ROLL CALL

All Council Members were present.

B. PLEDGE OF ALLEGIANCE

Mr. Jensen 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.

Ms. McLaughlin reported that Council received information from Staff.

2. Openings on Boards and Commissions:

Historic Preservation Review Commission: Two Full Terms to July 31, 2015 Open Until Filled

Soltrans Public Advisory Committee: Three Full Terms Open until Filled

Sky Valley Open Space Committee: One full term to January 31, 2015 Open until filled

Building Board of Appeals: Three full terms to January 31, 2015 Open

until filled

Solano Transportation Authority Pedestrian Advisory Committee: One Full Term Open Until Filled

3. Mayor's Office Hours:

4. Benicia Arsenal Update: Verbal Report

Ms. McLaughlin reported that Staff continued to work on the project. They were trying to set up some meetings in the future.

B. APPOINTMENTS

1. Appointment of Heidi Wing as the Youth Commissioner to the Parks, Recreation and Cemetery Commission

RESOLUTION 11-107 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF HEIDI WING AS THE YOUTH COMMISSIONER TO THE PARKS, RECREATION AND CEMETERY COMMISSION

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

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

C. PRESENTATIONS

1. Vivek Narayanan - Product Associate for Electric & Natural Gas Vehicles, Customer Energy Solutions at Pacific Gas and Electric Co

D. PROCLAMATIONS

1. In Recognition of Families in Transition (FIT) 20th Anniversary

2. In Recognition of Literacy Awareness Day - September 8, 2011

V. ADOPTION OF AGENDA:

Ms. McLaughlin recommended Item VIII-C be continued.

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

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

VI. OPPORTUNITY FOR PUBLIC COMMENT:

A. WRITTEN COMMENT

Mayor Patterson listed the six items (copy on file).

B. PUBLIC COMMENT

1. Bonnie Silveria - Ms. Silveria spoke in support of the recent garbage contract that was signed. She was pleased with the service.
2. Mary Frances Kelly Poh - Ms. Kelly Poh asked for assistance in getting a new yard waste container from the garbage company. She discussed concern regarding the removal of trees on East Second Street, as well as the Rose Drive area.
3. Bob Langston - Mr. Langston requested item VII.F be pulled from the Consent Calendar.
4. Karen Burns - Ms. Burns discussed concern regarding some trees near the City Cemetery that are old, infested with beetles, and are dangerous. She would like them removed.
5. Steve Goetz - Mr. Goetz inquired about the tree removal and solar panel installation process on East Second Street.
6. Citizen - The citizen thanked the City for keeping the pool open.

VII. CONSENT CALENDAR:

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

Council Member loakimedes noted that he would abstain from voting on the minutes of August 16, 2011, as he was absent from the meeting.

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

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

A. APPROVAL OF MINUTES FOR THE SPECIAL AND REGULAR MEETING OF AUGUST 16, 2011 AND THE SPECIAL MEETING OF AUGUST 23, 2011

On motion of Vice Mayor Schwartzman, seconded by Council Member Hughes, Council approved the minutes for the special and regular meetings of August 16, 2011, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes

Noes: (None)

On motion of Vice Mayor Schwartzman, seconded by Council Member Hughes, Council approved the minutes for the special meeting of August 23, 2011, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

B. PURCHASE OF CRUSHED AGGREGATE ROCK FOR FISCAL YEAR 2011-2012

RESOLUTION 11-108 - A RESOLUTION AUTHORIZING THE PURCHASE OF CRUSHED AGGREGATE ROCK FOR FISCAL YEAR 2011-2012 FROM SYAR INDUSTRIES INC. OF VALLEJO, CALIFORNIA, FOR A NOT-TO-EXCEED COST OF \$25,000

On motion of Council Member Hughes Council adopted the Resolution, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

C. APPROVAL OF AMENDMENTS TO AGREEMENTS FOR ONE-YEAR EXTENSIONS FOR STREETLIGHT AND TRAFFIC SIGNAL MAINTENANCE AND REPAIR SERVICES

RESOLUTION 11-110 - A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT TO EXTEND THE TERM FOR A ONE-YEAR PERIOD FOR STREET LIGHTING MAINTENANCE AND REPAIR WITH REPUBLIC INTELLIGENT TRANSPORTATION SERVICES, INC., OF NOVATO, IN THE AMOUNT OF \$81,616, AND AUTHORIZING THE CITY MANAGER TO SIGN THE AMENDMENT ON BEHALF OF THE CITY

RESOLUTION 11-111 - A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT TO EXTEND THE TERM FOR A ONE-YEAR PERIOD FOR TRAFFIC CONTROL DEVICE MAINTENANCE AND REPAIR WITH REPUBLIC INTELLIGENT TRANSPORTATION SERVICES, INC., OF NOVATO, IN THE AMOUNT OF \$54,445, AND AUTHORIZING THE CITY MANAGER TO SIGN THE AMENDMENT ON BEHALF OF THE CITY

Vice Mayor Schwartzman and Staff clarified the amount quoted in the staff report was a per year amount.

Public Comment:

None

On motion of Vice Mayor Schwartzman, seconded by Council Member loakimedes, Council adopted Resolution 11-110, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

On motion of Vice Mayor Schwartzman, seconded by Council Member loakimedes, Council adopted Resolution 11-111, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

D. FISCAL YEAR 2010-11 ANNUAL ACCOUNTING OF VALERO/GOOD NEIGHBOR STEERING COMMITTEE SETTLEMENT AGREEMENT FUND EXPENDITURES

Mayor Patterson requested a clarification on the status of the air monitoring website. Valero is working with the CAP members. The equipment has been purchased. They are working on the webpage. Valero and the CAP are working diligently on the process. They want to make sure the information is displayed on the website in a manner that will be meaningful and understandable to the public. Mayor Patterson would like to see this item come back to Council to show how the City and Valero/CAP will handle the transfer of the website to the City's purview.

Vice Mayor Schwartzman asked Staff to clarify the amount the City had left to use from the VIP settlement (\$4,010,000).

Council Member Campbell and Staff discussed the issue of the bicycle racks, clarification on the balance left in the funds from Valero. Council Member Campbell would like the accounting layout to be clearer.

Council Member loakimedes asked Staff to designate the amount that was in the original contract. There is money that per the contract has to be spent on certain items.

Public Comment:

None

On motion of Council Member Hughes, seconded by Council Member loakimedes, Council accepted the Fiscal Year 2010-11 Annual Accounting of Valero/Good Neighbor Steering Committee Settlement Agreement Fund expenditures, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

E. PURCHASE OF CUBICLES FOR LIBRARY STAFF WORKROOM SAFETY RENOVATION PROJECT

On motion of Vice Mayor Schwartzman, seconded by Council Member Hughes, Council approved the purchase of cubicles for Library Staff Workroom Safety

Renovation Project, on roll call by the following vote:
Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes
Noes: (None)

F. ADOPT THE ORDINANCE TO CHANGE THE STIPEND AND BENEFITS OF THE CITY TREASURER

ORDINANCE 11- - AN ORDINANCE ADDING A NEW CHAPTER 2.48 (CITY TREASURER) TO DIVISION 1 (ORGANIZATION) OF TITLE 2 (ADMINISTRATION AND PERSONNEL) OF THE BENICIA MUNICIPAL CODE

Heather McLaughlin, City Attorney, read the staff report. She reviewed the version of the revised ordinance that was added to the packet.

Mayor Patterson discussed her support for the revised version of the ordinance.

Council Member Hughes and Staff discussed whether the stipend could be increased during the term of office (it could), and the cost for stipend and benefits with the amended ordinance (\$2,901 - \$30,516).

Council Member Campbell disclosed exparte communications. He and Staff discussed the current responsibilities of the City Treasurer, the cost of PERS for the position, and possible support for a stipend (if job duties could be documented).

Public Comment:

1. Hugh Autz - Mr. Autz spoke in opposition to the proposed ordinance.
2. Robert Langston - Mr. Langston spoke in opposition to the proposed ordinance.
3. Dick Lubin - Mr. Lubin spoke in opposition to the proposed ordinance.
4. Larry Fullington - Mr. Fullington spoke in support of the proposed ordinance.
5. Ken Paulk - Mr. Paulk discussed the need to have a job description for the position of the City Treasurer. It should not be a ceremonial position.
6. Joel Fallon - Mr. Fallon spoke in opposition to the proposed ordinance.
7. Dan Smith - Mr. Smith spoke in opposition to the proposed ordinance.
8. Kimball Goodman - Mr. Goodman discussed the importance of not speaking ill of the diverse culture in Bell, California.

Council Member loakimedes discussed the importance of giving the voters a voice on the issue. He could not support the proposed ordinance.

Council Member Hughes discussed the roles and responsibilities of past and present Finance Committees. He would support opening the issue up for reconsideration, in light of the information submitted by Mr. Langston.

Council Member Campbell suggested going with the suggested \$2,900 per year, and if additional duties and responsibilities are added, the amount could be increased.

Vice Mayor Schwartzman discussed support for an elected treasurer, support for the stipend of \$200/month, and having the elected treasurer provide input on what the duties should be.

Council Member loakimedes disclosed ex parte communications. He discussed concern regarding changing an elected official's stipend. He was not in support of any of the proposed ordinances.

Vice Mayor Schwartzman disclosed ex parte communications.

Council Member Hughes clarified that Council agreed the position should remain elected. He could support the amended ordinance.

Ms. McLaughlin clarified that the duties could be changed, and the stipend could be increased after the term begins (but could not decreased).

Mayor Patterson discussed support for the amended ordinance (proposed by Mr. Langston), and evaluating/adding duties after the term begins.

Council Member Hughes made the motion to approve Introduction and First Reading of the amended ordinance (per handout – copy attached).

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

Ayes: Patterson, Schwartzman, Campbell, Hughes

Noes: loakimedes

G. APPROVAL OF AMENDMENT NO. 1 TO THE JOINT USE OF FACILITIES AGREEMENT FOR BENICIA MIDDLE SCHOOL

On motion of Vice Mayor Schwartzman, seconded by Council Member Hughes, Council approved, by motion, the amendment to No. 1 to the Joint Use of Facilities Agreement for Benicia Middle School, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

H. LOCAL VENDOR PREFERENCE POLICY - CONTRACTS FOR PROFESSIONAL SERVICES

RESOLUTION 11-109 - A RESOLUTION APPROVING A LOCAL PREFERENCE POLICY FOR THE PROCUREMENT OF PROFESSIONAL SERVICES

On motion of Vice Mayor Schwartzman, seconded by Council Member Hughes, Council adopted the Resolution, on roll call by the following vote:
Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes
Noes: (None)

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

VIII. BUSINESS ITEMS:

- A. **STATE PARK CLOSURES: DISCUSSION OF STAFF ASSESSMENT OF THE BENICIA STATE PARKS AND CONCEPTUAL BUSINESS TERMS FOR OPERATING AGREEMENT(S) WITH THE STATE OF CALIFORNIA**

Brad Kilger, City Manager, and Mario Giuliani, Acting Economic Development Director, reviewed the staff report.

Mayor Patterson discussed conversations she had with the former director of the State Parks and Recreation, as well as others regarding the issue. They suggested the City take action and move forward. They also liked the three-part approach.

Vice Mayor Schwartzman discussed the importance of keeping Benicia's State Parks open. The City needs to consider the liability issues very carefully.

Council Member loakimedes and Staff discussed what would happen if the State cut off funding in the second year (\$80,000). He stressed the importance of documenting the 'safety net' in the event the State does not provide funding in the second year.

Council Member Campbell and Staff discussed the possibility of generating some revenue (such as weddings in the State Capitol) for the two State Parks. They discussed the issue of donations being made for specific repairs (such as painting the Fisher Hanlon House. They also discussed the issue of liability at the sites.

Council Member Hughes and Staff discussed concern regarding the issue of liability and indemnification. They discussed concern regarding dipping into the General Fund to fund this.

Mayor Patterson discussed various suggestions she had heard for creating revenue, (office space, parking meters, painting the curbs on West K Street, weddings, RV parking, etc.).

Mr. Kilger discussed the heavy bureaucracy and paperwork that is required in

order to make repairs/maintain State Park buildings.

Public Comment:

1. Carol Berman, Benicia State Parks Association - Ms. Berman discussed the issues of advocacy and fundraising for the Benicia State Parks. She clarified the issue of the stakeholders, and the issue of the docents.
2. Steve Goetz - Mr. Goetz discussed the Forrest Deaner Native Plant Botanic Garden. He discussed the need for the City to reach an agreement with the State to provide water to the plants. He discussed the other needs of the plant society, with respect to the Benicia State Park.
3. Dan Smith - Mr. Smith spoke in support of the proposal.
4. Bob Berman - Mr. Berman asked that the Benicia State Parks Association be part of the agreement. There needs to be a better idea of what 'closure' actually means for the parks. He encouraged Staff to reach out to other cities in Solano County for assistance, as the parks are 'regional.' He discussed the need for a volunteer coordinator.
5. Mr. Jensen - Mr. Jensen spoke in support of the proposed agreements.
6. Karen Burns - Ms. Burns spoke in support of the proposed agreements.
7. Jeanne Steinmann - Ms. Steinmann spoke in support of the proposed agreements.
8. Christina Strawbridge - Ms. Strawbridge spoke in support of the proposed agreements.
9. Kimball Goodman - Mr. Goodman spoke in support of the proposed agreement.

Mayor Patterson requested a motion to give direction to staff on recommending going forward to negotiate with the State of California to keep the Benicia State Parks open and accessible to the public, pursuant to the staff report, and including clarity on liability exposure, what happens if the money isn't there the second year, what does closure mean, and how to define it, and also, on a two-track system - to reach out to Vallejo/Greater Vallejo Recreation District, and report back to Council on the success of those, and perhaps a subcommittee of Council Members to meet with them (Council would need to hear back from Staff before they took that step.). Staff should explore all options before dipping into the City's General Fund.

Vice Mayor Schwartzman asked for clarification on the Porta Potties at the State Park (they would all remain). He suggested looking into solar panels in the parking lots.

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

Ayes: Patterson, Schwartzman, Campbell, Hughes, loakimedes

Noes: (None)

B. UNILATERAL IMPLEMENTATION OF CHANGES IN WAGES, HOURS AND TERMS AND CONDITIONS OF EMPLOYMENT FOR EMPLOYEES IN THE BENICIA PUBLIC SERVICES EMPLOYEES ASSOCIATION

RESOLUTION 11-112 - A RESOLUTION APPROVING UNILATERAL IMPLEMENTATION OF CHANGES IN WAGES, HOURS, AND TERMS AND CONDITIONS OF EMPLOYMENT FOR EMPLOYEES IN THE BENICIA PUBLIC SERVICES ASSOCIATION (BPSEA)

Brad Kilger, City Manager, and Anne Cardwell, Administrative Services Director, reviewed the staff report.

Public Comment:

1. David Murray - Mr. Murray spoke in opposition to the proposed resolution.
2. Linda Joseph - Ms. Joseph spoke in opposition to the proposed resolution.
3. Sharon Williams - Ms. Williams spoke in opposition to the proposed resolution.
4. Nell Da Silva - Ms. Da Silva spoke in opposition to the proposed resolution.
5. Jim Arruda - Mr. Arruda spoke in opposition to the proposed resolution.
6. Roy Garibaldi - Mr. Garibaldi spoke in opposition to the proposed resolution.
7. Colleen Williams - Ms. Williams spoke in opposition to the proposed resolution.
8. Mary O'Reilly - Ms. O'Reilly spoke in opposition to the proposed resolution.

Council Member Hughes, Patterson, Schwartzman, and Ioakimedes expressed support for the proposed resolution (out of practicality), however hoped the City would continue to negotiate and reach a resolution on the issue.

C. TERMINATION OF THE CITY'S INTERESTS IN EASEMENTS ACROSS 270 WEST H STREET PURSUANT TO A MEDIATED SETTLEMENT AGREEMENT

Item Continued.

D. BIENNIAL PAVEMENT CONDITION UPDATE REPORT

Item Continued.

E. LEAGUE OF CALIFORNIA CITIES ANNUAL CONFERENCE RESOLUTIONS

Item Continued.

**F. REQUEST TO AGENDIZE THE VIOLATION OF CHAPTER 1.40,
BENICIA DISCLOSURE OF CONTRIBUTIONS AND EXPENDITURES IN
CANDIDATE AND BALLOT MEASURE ELECTIONS**

Item Continued.

Mayor Patterson suggested Council Member Campbell file a formal complaint with the City Attorney or Open Government Commission.

IX. ADJOURNMENT:

Mayor Patterson adjourned the meeting at 11:34 p.m.

Lisa Wolfe, City Clerk