

MINUTES OF THE
SPECIAL MEETING – CITY COUNCIL
SEPTEMBER 16, 2008

The special meeting of the City Council of the City of Benicia was called to order by Mayor Elizabeth Patterson at 5:30 p.m. on Tuesday, September 16, 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 Hughes, Ioakimedes, Schwartzman, and Mayor Patterson

Absent: Vice Mayor Campbell (arrived at 5:45 p.m.)

PLEDGE OF ALLEGIANCE:

Heather McLaughlin 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).

OPPORTUNITY FOR PUBLIC COMMENT:

WRITTEN:

Various items submitted (hard copies on file).

PUBLIC COMMENT:

None

ANNOUNCEMENT OF CLOSED SESSION:

Heather McLaughlin, City Attorney, read the announcement of Closed Session.

CLOSED SESSION:

**A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR
(Government Code Section §54956.8)**

Property: Right-of-way on Military West at I-780 Freeway

Negotiating Parties: City Manager/Public Works Director

Under Negotiation: Purchase of right-of-way on Military West at I-780 Freeway

B. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9

Number of potential cases: # 1

ADJOURN TO CLOSED SESSION:

Mayor Patterson adjourned the meeting to Closed Session at 5:32 p.m.

RECONVENE OPEN SESSION:

Mayor Patterson reconvened the meeting to Open Session at 6:12 p.m.

ANNOUNCEMENT:

Action taken in Closed Session:

Ms. McLaughlin reported that Council received information from Staff.

INFORMATIONAL ITEMS:

Consideration of a Cultural Arts Commission:

Anne Cardwell, Administrative Services Director, reviewed the staff report.

Mr. Erickson discussed gearing up for the commission responsibility, having a study session on sustainability, the possibility of having a sustainable commission, the need for proper staff support, the City's financial condition, property tax issues, reduction in property taxes from the County, the State of California's budget, and the suggestion to defer budgetary actions on the proposed commission until late January or early February.

Council and Staff discussed the issue of dedicated staff time for the proposed commission, the possibility of the staff support turning into a full time position (which would be funded by outside money – grants, etc.), and current commission expenses.

Public Comment:

1. Paul Zill, Benicia Old Town Theater Group – Mr. Zill discussed the need for a performing arts center, his support for having a City controlled commission.
2. Bob Surrat – Mr. Surrat spoke in favor of a cultural arts commission and a cultural arts center, the current charter of the Human Services and Arts Board, his disappointment that information was not made available tonight.
3. Stan Houston – Mr. Houston discussed his support for a cultural arts commission, the need to take crucial steps in the process, the need for a coordinated effort between all of the current Arts organizations, the need for a good marketing program, the need for proper staffing for the commission, the need for a cultural arts center – in the Downtown area, and the commission membership.
4. Bart Sullivan – Mr. Sullivan spoke in support of the proposed commission, the need for it to be a coordinated effort, and his support for a cultural arts center.
5. Lee Wilder-Snyder – Ms. Wilder-Snyder discussed her support for the proposed commission, the need to proceed cautiously, taking an interim step by getting the four groups together (Benicia Community Arts, Benicia Old Town Theatre Group, Benicia Performing Arts, and Arts Benicia) to look at where they see where the commission is going – possibly as a subcommittee – possibly making a presentation to Council, marketing plan, and the spirit of Arts.
6. Bonnie Weidel – Ms. Weidel discussed the current non-profit arts organizations in the community, the need to bring the groups together to look into this, and the need for the other groups to have a voice in this process.

7. Marilyn Bardet – Ms. Bardet discussed the current artists in the Benicia Industrial Park, the fact that they are an un-represented group, how the City has changed over the years, her support for the proposed commission, the need for fresh voices on the commission, the need to get the groups together to discuss and provide input on the proposed commission, and the possibility of the Mills site being used for a temporary site for cultural arts activities.
8. Susan Street – Ms. Street spoke in support of the proposed commission and the need to get the current groups together to provide input on the proposed commission.
9. Rick Ernst – Mr. Ernst discussed his past presidency with the Benicia Old Town Theatre Group, grants he applied for, support for having the other arts groups meet on this issue, and his support for the proposed commission.

Council and Staff discussed the issue of funding and staffing, forming a committee to look into the commission, having the various resources, groups, commissions, etc. work together on this issue, using the Majestic Theater for a cultural arts center, the need for organization within the current arts groups, the need for those groups to submit their collective thoughts to Council, not forming a subcommittee, forming a commission without a lot of staff support, the need for broad representation, forming an ad-hoc working group who would work with primarily the City Attorney to iron out the details of an ordinance, possibly having few Council Members, EDB liaison, and HPRC liaison on the ad-hoc working group, possibly having three meetings, and letting the working group decide whether it needs support from one or two Council Members.

Mayor Patterson stated that the direction to staff was to put together a working ad hoc group with staff, EDB liaison, HPRC liaison, have the group come up with how the commission would work, how it would be formed, the number of members, and how the members would be drawn. The working group should have three meetings.

ADJOURNMENT:

Mayor Patterson adjourned the meeting at 7:05 p.m.

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
SEPTEMBER 16, 2008

The regular meeting of the City Council of the City of Benicia was called to order by Mayor Elizabeth Patterson at 7:15 p.m. on Tuesday, September 16, 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 Hughes, Ioakimedes, Schwartzman, and Mayor Patterson

Absent: Vice Mayor Campbell (arrived at 7:16 p.m.)

PLEDGE OF ALLEGIANCE:

Council Member Schwartzman 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:

Action taken at Closed Session:

Ms. McLaughlin reported that Council received information from Staff.

Openings on Boards and Commissions:

- Sky Valley Open Space Committee:
One unexpired term to September 30, 2010
- Economic Development Board
One full term to July 31, 2012
- Human Services & Arts Board
One unexpired term to July 31, 2009

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 will not be available for office hours on Monday, September 22, 2008 or Monday, September 29, 2008, as she will be out of town. She will resume open office hours on Monday, October 6, 2008.

Golden Gate Partnership recognitions from Cal/OSHA to the Benicia Public Works

Department:

The City of Benicia Public Works Department recently received three Golden Gate Partnership Recognitions from Cal/OSHA for demonstrated commitment to workplace

safety and health conditions at the Water Treatment Plant, Wastewater Treatment Plant, and the Public Works Corporation Yard.

Museum Day:

Benicia Historical Museum is taking part in the annual national Museum Day on Saturday, September 27, 2008.

APPOINTMENTS:

RESOLUTION 08-99 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF TRIYA LEONG AS THE YOUTH COMMISSION REPRESENTATIVE TO THE PARKS, RECREATION AND CEMETERY COMMISSION

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:

Coastal Cleanup Day and "Plastics in the Ocean" Program:

Ms. Vicki Shidell, Benicia Water Quality Supervisor, Ms. Carol Kiper, Oikonos Ecosystem Knowledge, and Ms. Andrea Jenest, Benicia High School Oceanography Teacher, discussed Coastal Cleanup Day, recycling plastics, and the effects the Oceanography class had on its students.

PROCLAMATIONS:

- Recognition of Pollution Prevention Week – September 15-21, 2008
- Recognition of Amateur Radio Public Awareness Day - September 20, 2008
- Welcome for Tua Hallstrom, Exchange Student from Leksand, Sweden

ADOPTION OF AGENDA:

Mr. Erickson noted the addition of listing the times on the agenda and the correction to the 9/2/08 minutes regarding the direction to staff on page VII-A-2.

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

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

Noes: None

OPPORTUNITY FOR PUBLIC COMMENT:

WRITTEN:

Various items submitted (hard copies on file).

PUBLIC COMMENT:

1. Bonnie Silveria – Ms. Silveria invited everyone to the Soroptimists event on 9/20/08 at the BDES Hall.
2. Ann Hansen – Ms. Hansen thanked everyone for their support with the repairs at the museum over the past few months.
3. Marilyn Bardet – Ms. Bardet announced an upcoming forum that Benicia First will host at Benicia High School on 9/18/08.

CONSENT CALENDAR:

On motion of Council Member Schwartzman, seconded by Council Member Ioakimedes, 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

The Minutes of September 2, 2008 were approved as amended.

RESOLUTION 08-100 - A RESOLUTION AUTHORIZING THE DESIGNATION OF DOWNTOWN BENICIA AS A PRIORITY DEVELOPMENT AREA UNDER THE FOCUS PROGRAM

RESOLUTION 08-101 - A RESOLUTION AUTHORIZING INVESTMENT OF MONIES IN THE LOCAL AGENCY INVESTMENT FUND

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

(END OF CONSENT CALENDAR)

PUBLIC HEARINGS:

None

ACTION ITEMS:

Reaffirm the purpose of the Sky Valley Open Space Committee - continued from the September 2, 2008 City Council Meeting:

Charlie Knox, Community Development Director, introduced the item.

Mr. Scott Shepherd, Chair, Sky Valley Open Space Committee, reviewed a PowerPoint presentation (hard copy on file).

Council, Staff, and Mr. Shepherd discussed who owned the 5,500 acres (There are 30-40 parcels that make up the 5,500 acres – the average size being 150-200 acres.), the sphere of influence, conservation easements, land acquisitions, how this relates to the County General Plan, Measure T, and the City's General Plan.

Public Comment:

None

RESOLUTION 08-102 - A RESOLUTION REAFFIRMING THE PURPOSE OF THE SKY VALLEY OPEN SPACE COMMITTEE

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

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

Noes: None

Introduction of an ordinance amending Title 9 (Public Peace, Morals and Welfare) to change the title of Chapter 9.28 from (Night Curfew) to (Youth Protection) and add Article 2 (Daytime Curfew) to Chapter 9.28 (Youth Protection) of the Benicia Municipal Code:

Deputy Police Chief Andrew Bidou reviewed the staff report. Deputy Police Chief Bidou reviewed some changes (clarify) to the staff report. He reviewed a PowerPoint presentation (hard copy on file).

Janice Adams, Superintendent, Benicia Unified School District, discussed the issue of truancy, the District's online attendance program, various reasons kids are truant, various interventions that take place as a result of truancy, the attitudes of habitual truants, the need to raise the level of concern, and the fact that there is unanimous support from the District's administrative staff.

Council, Staff, and Superintendent Adams discussed the household situations of habitual truants, some reasons kids become truant, support for families that would be receiving citations and fines, the intent of the ordinance, intervention for the students who are truant, the need to put something in the ordinance regarding 'after a student receives a certain number of citations, an intervention will occur', how the District's School Attendance Review Board (SARB) works, the effect the fines would have on students/families, the situations that could occur where the fines/citations would backfire and have a negative effect on families, the times of day when the most trancies occur (5th and 7th periods), the possibility of having a closed campus, how this would affect the minor's arrest record when they become an adult, how a student who is 18 years old would be treated (as a minor or adult) and how it would affect their record, how students who are truant and are at their residence are handled, the need to add that students arrest records could be expunged if they get their act together when they become an adult, current truancy rates in Benicia, the suggestion to include intervention options in the ordinance, the need not to duplicate or conflict with State laws, adding a sentence saying that this is an ordinance to supplement existing law, understanding that it is a partnership, and the reason for the escalating fines.

Kathy McNair, Principal, Benicia Middle School, discussed the fact that the schools, School Resource Officers', etc. know who the habitual offenders are, support for the proposed ordinance, creating perfect attendance habits, and her appreciation for the Benicia Police Department's efforts.

Public Comment:

1. Ramon Castellblanch – Mr. Castellblanch discussed whether or not there is a link between truancy and curfews and questioned the reliability of the research on this issue. He spoke in opposition to the proposed ordinance.

Council and Mr. Castellblanch discussed the issue of the fines, the lack of costs involved with implementing the ordinance the need for performance measurements, the fact that the ordinance can be modified if need be, the benefits of the proposed ordinance.

2. Roger Straw – Mr. Straw discussed the tension this ordinance could cause in families, kids learning to hide when they are truant, how closely the schools and police would be working together on this issue, and whether the school could ask the police to stake out a student who is truant.

Superintendent Adams stated that although administrators do go to students' homes on occasion, it is not their intention to 'stake out students'. Chief Spagnoli discussed the lack of staff to accommodate such a stake out.

3. Marilyn Bardet – Ms. Bardet discussed her past interactions with a student who was truant, the negative effects the fines could have on families, and the need to have alternative fines (community service) for such families.
4. Rick Ernst – Mr. Ernst discussed being able to work off the first violation (in something similar to traffic school), his past experience with truancy, and the construction academy, and giving the kids incentive to go to school.

Council discussed looking into alternative fines (if allowed by the State), looking into performance measures, proactive intervention language into the purpose, the need to leave alternative fines out of the ordinance, keeping the fines at \$50, keeping the escalating fines, possibly using the Benicia Community Gardens as an alternative measure to fines, clarification on what constitutes a medical appointment, and the Police Department's current in-house diversion program and how it works.

Council Member Schwartzman clarified that his motion would include having the Police Department come back in a year with hard numbers on what is going on with truancy, and adding language regarding proactive intervention into the purpose (language from the Monrovia case), and cite existing law regarding diversion program eligibility.

ORDINANCE 08- - AN ORDINANCE AMENDING TITLE 9 (PUBLIC PEACE, MORALS AND WELFARE) TO CHANGE THE TITLE OF CHAPTER 9.28 FROM (NIGHT CURFEW) TO (YOUTH PROTECTION) AND ADD ARTICLE 2 (DAYTIME CURFEW) TO CHAPTER 9.28 (YOUTH PROTECTION) OF THE BENICIA MUNICIPAL CODE

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

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

Noes: None

Adoption of a resolution accepting the emissions inventory report and approving
greenhouse gas reduction targets:

Amalia Lorentz, Economic Development Manager, reviewed the staff report. She reviewed a PowerPoint presentation (hard copy on file).

Council and Staff discussed the impact from the commute in and out of Benicia, how the data can be looked at in different ways, realistic goals, Staff's confidence in the accuracy of the data, consequences of not meeting the AB 32 or the City's internal goals, what will be required in 2012, and the positive level of cooperation from Amports, Valero, and Allied Waste.

Public Comment:

1. Roger Straw – Mr. Straw commended the City on its efforts regarding this issue.
2. Marilyn Bardet – Ms. Bardet commended the City on its efforts regarding this issue, the need to educate the public on this issue, using some of the funds from the Valero settlement for a public education component, and the possibility of a sustainability commission.

Council and Staff discussed including having the US Mayor's Climate Agreement registered if the resolution is adopted, the residential component, concerns regarding the accuracy of the numbers relating to commute, having the City's goals be better/higher, factoring in the vehicle miles traveled when Staff begins working on the Climate Action Plan, SB 375, the dangerous level of parts per million, and marine emissions.

RESOLUTION 08-103 - A RESOLUTION ACCEPTING THE EMISSIONS
INVENTORY REPORT AND APPROVING GREENHOUSE GAS REDUCTION
TARGETS

On motion of Council Member Schwartzman, 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

Endorsement of Solano County Measure T on the November 4, 2008 General Election
Ballot:

Jim Erickson, City Manager, reviewed the staff report.

Public Comment:

1. Nicole Byrd, Greenbelt Alliance – Ms. Byrd spoke in support of Council endorsing Solano County Measure T on the November 4, 2008 general election ballot. She discussed Sky Valley and the Orderly Growth Initiative.
2. Larry Clement, Solano County Farm Bureau – Mr. Clement spoke in support of Council endorsing Solano County Measure T on the November 4, 2008 general election ballot.
3. Roger Straw – Mr. Straw discussed issues regarding the past election with regards to General Plan updates.

RESOLUTION 08-104 - A RESOLUTION ENDORSING SOLANO COUNTY MEASURE "T" ON THE NOVEMBER 4, 2008 GENERAL ELECTION BALLOT

On motion of Council Member Schwartzman, seconded by Council Member Hughes, 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 4-minute break at 10:20 p.m.

The meeting resumed at 10:25 p.m.

INFORMATIONAL ITEMS:

Reports from City Manager:

Update from the Police Chief regarding public safety statistics and comparisons - continued from September 2, 2008 City Council Meeting:

Police Chief Sandra Spagnoli reviewed the staff report. She reviewed a PowerPoint presentation (hard copy on file).

Public Comment:

1. Rick Ernst - Mr. Ernst inquired about the Police Department activities, arrests and convictions, and whether there had been an increase in the size of the police force.

Council discussed the City's low crime rate and the public safety efforts.

Analysis of the Graffiti Ordinance - continued from September 2, 2008 City Council Meeting:

Police Chief Sandra Spagnoli and Dan Schiada, Public Works Director, reviewed the staff report.

Council and Staff discussed Suisun's Report, Remove, and Repair (RRR) Program, the City's 'Adopt a Street' program and how something similar could work for this issue, fines, property owners' responsibility regarding graffiti, financial strains for some property owners with regards to graffiti removal/fines, anti-graffiti measures, the City's

current response time for graffiti removal, response time for property owners removing graffiti.

On motion of Council Member Hughes, seconded by Vice Mayor Campbell, Council approved the direction to Staff to proceed with amending the graffiti ordinance, on roll call by the following vote:

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

Noes: None

Solar Programs Information:

Jim Erickson, City Manager, reviewed the staff report.

Council and Staff discussed including the Good Neighbor Steering Committee meeting so Staff could connect the dots, and the timetable for Staff coming back with a program (possibly around the first of the year).

Public Comment:

None

Council Member Committee Reports:

1. Mayor's Committee Meeting - Mayor Patterson - Next Meeting Date: September 17, 2008
2. Association of Bay Area Governments (ABAG) - Mayor Patterson & Vice Mayor Campbell - Next Meeting Date: October 24, 2008
3. Audit & Finance Committee - Vice Mayor Campbell & Council Member Schwartzman - Next Meeting Date: October 10, 2008
4. League of California Cities - Mayor Patterson & Council Member Schwartzman - Next Meeting Date: Annual Conference – September 24-27, 2008
5. School Liaison Committee - Council Members Ioakimedes & Hughes - Next Meeting Date: To be determined
6. Sky Valley Open Space Committee - Vice Mayor Campbell & Council Member Ioakimedes - Next Meeting Date: October 1, 2008
7. Solano EDC Board of Directors - Mayor Patterson & Council Member Ioakimedes - Next Meeting Date: September 25, 2008
8. Solano Transportation Authority (STA) - Mayor Patterson & Council Member Schwartzman - Next Meeting Date: October 8, 2008
9. Solano Water Authority/Solano County Water Agency and Delta Committee - Mayor Patterson & Vice Mayor Campbell - Next Meeting Date: October 9, 2008
10. Traffic, Pedestrian and Bicycle Safety Committee - Vice Mayor Campbell & Council Member Hughes - Next Meeting Date: October 16, 2008
11. Tri-City and County Regional Parks and Open Space - Vice Mayor Campbell & Council Member Hughes - Next Meeting Date: To be determined.
12. Valero Community Advisory Panel (CAP) - Council Member Hughes - Next Meeting Date: September 25, 2008

13. Youth Action Coalition - Council Members Ioakimedes & Schwartzman - Next Meeting Date: September 24, 2008
14. ABAG/CAL FED Task Force/Bay Area Water Forum - Mayor Patterson - Next Meeting Date: September 22, 2008

COMMENTS FROM COUNCIL MEMBERS:

Request to agendize discussion of the need for an ordinance regarding properties in foreclosure - Mayor Patterson - continued from the September 2, 2008 City Council Meeting:

Mayor Patterson read the Council report.

On motion of Vice Mayor Campbell, seconded by Council Member Schwartzman, Council agreed to agendize the discussion of the need for an ordinance regarding properties in foreclosure, 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 10:55 p.m.

Lisa Wolfe, City Clerk