

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
October 01, 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 6:30 p.m.

All Council Members were present.

II. CLOSED SESSION:

- A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**
Significant exposure to litigation pursuant to paragraph (2) of
subdivision (d) of Section 54956.9:
(1 case regarding Community Development Block Grant Funds)

III. CONVENE OPEN SESSION:

Mayor Patterson called the Open Session to order at 7:08 p.m.

- A. ROLL CALL**
- B. PLEDGE OF ALLEGIANCE**

Mayor Patterson 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 that Council received information from Staff on item II.A.

- 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

Update from City Attorney

Status quo. Nothing new to report.

B. PROCLAMATIONS

- 1. In Recognition of Fire Prevention Week October 6-12, 2013**
- 2. In Recognition of the Observance of Benicia Arbor Day on October 12, 2013**

C. APPOINTMENTS

- 1. Appointment of Sabrina Corley as the Youth Commissioner to the Parks, Recreation and Cemetery Commission.**

RESOLUTION 13-87 - A RESOLUTION APPROVING THE MAYOR'S APPOINTMENT OF SABRINA CORLEY AS THE YOUTH COMMISSIONER TO THE PARKS, RECREATION AND CEMETERY COMMISSION

On motion of Mayor Patterson, Council adopted Resolution 13-87, on roll call by the following vote:

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

2. **Appointment of Council Member Christina Strawbridge to the City Council Appointment Subcommittee for a one-year term ending September 30, 2014.**

RESOLUTION 13-88 - A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF COUNCIL MEMBER CHRISTINA STRAWBRIDGE TO A CITY COUNCIL APPOINTMENT SUBCOMMITTEE FOR A ONE-YEAR TERM ENDING SEPTEMBER 30, 2014

Mayor Patterson inquired as to whether Council should wait to vote on this item, as Council would be discussing the appointment process later on the agenda. Council consensus was to proceed with the vote.

Council Member Schwartzman inquired whether the term would be shortened as the appointment should have been done in January. He also inquired why Council Member Hughes was not being appointed, as he was next in line.

Mayor Patterson and Council Member Hughes clarified that he was asked by the Mayor if he would allow Council Member Strawbridge to be on the appointment subcommittee to help her further her education as a Council Member. Council Member Hughes agreed, as he had done a double stint a few years back.

On motion of Mayor Patterson Council adopted Resolution 13-88, on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes

Noes: (None)

D. PRESENTATIONS

1. **Review of the New Economic Development Website: BeniciaBusiness.Com**

V. ADOPTION OF AGENDA:

Mr. Kilger noted there were no changes; however Staff would be asking Council to continue item VIII.A.

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

B. PUBLIC COMMENT

1. Mayor Patterson presented a proclamation to the Benicia Tula Sister Cities Association.

VII. CONSENT CALENDAR:

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

On motion of Council Member Schwartzman, seconded by Council Member Hughes, 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 SEPTEMBER 17, 2013 CITY COUNCIL MEETING

Council Member Schwartzman requested various comments be added to the minutes regarding item VII.B.

On motion of Council Member Schwartzman, seconded by Council Member Hughes, Council approved the Minutes of the September 17, 2013 City Council Meeting, as amended, on roll call by the following vote:

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

B. SECOND READING AND ADOPTION OF THE ORDINANCE AMENDING CHAPTER 5.28 (PEDDLERS, SOLICITORS, AND CANVASSERS) OF TITLE 5 (BUSINESS TAXES, LICENSES AND REGULATIONS) OF THE BENICIA MUNICIPAL CODE BY REPLACING IT IN ITS ENTIRETY

ORDINANCE 13-12 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING CHAPTER 5.28 (PEDDLERS, SOLICITORS AND CANVASSERS) OF TITLE 5 (BUSINESS TAXES, LICENSES AND REGULATIONS) OF THE BENICIA MUNICIPAL CODE BY REPLACING IT IN ITS ENTIRETY

C. APPROVAL FOR AMENDMENT TO CONTRACT SERVICES AGREEMENT BETWEEN CITY OF BENICIA AND WOODRUFF, SPRADLIN, & SMART FOR OUTSIDE COUNCIL REGARDING VALERO CRUDE BY RAIL

Mayor Patterson and Council Member Strawbridge disclosed ex parte communications.

Public Comment:

1. Kathy Kerridge inquired who would be paying for the service and who the actual client was.

Council Member Schwartzman asked if there should be a threshold on the dollar limit. Staff confirmed Council could do that, but did not recommend doing so. Staff should monitor the fees, but not put a cap on it.

Council and Staff discussed whether the cost for the attorney fees should have been negotiated when the application first came in. Staff confirmed that Valero might be willing to pay for part of the attorney fees, but it has not been addressed yet.

Mayor Patterson and Staff discussed concerns regarding CEQA regarding Council's vulnerability and the protection of the public health and safety issue.

Vice Mayor Campbell asked for a point of order, as public comment was not finished.

Public Comment:

None

Council and Staff discussed the outside attorney qualifications and selection process.

On motion of Council Member Hughes, seconded by Council Member Strawbridge, Council approved by motion, the amendment to contract services agreement between the City of Benicia and Woodruff, Spradlin, & Smart for outside counsel regarding Valero Crude By Rail, as presented, on roll call by the following vote:

Ayes: Strawbridge, Schwartzman, Hughes

Noes: Campbell, Patterson

D. SALE OF RETIRED POLICE SERVICES CANINE MICRO

RESOLUTION 13-89 - RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AUTHORIZING AND DIRECTING THE CITY MANAGER TO SIGN A BILL OF SALE FOR THE SALE OF RETIRED POLICE SERVICES CANINE MICRO

E. APPROVAL OF CONSULTANT CONTRACT AMENDMENT WITH MARK THOMAS & COMPANY FOR ENVIRONMENTAL AND 35% DESIGN PHASE OF THE BENICIA INDUSTRIAL PARK BUS HUB PROJECT

RESOLUTION 13-90 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING A CONSULTANT CONTRACT AMENDMENT WITH MARK THOMAS & COMPANY IN THE AMOUNT OF \$88,388 FOR THE ENVIRONMENTAL & 35% DESIGN PHASE OF THE BENICIA INDUSTRIAL PARK BUS HUB PROJECT AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT ON BEHALF OF THE CITY

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

VIII. BUSINESS ITEMS:

A. AMENDMENT OF THE MASTER FEE SCHEDULE TO ADD PROVISIONS FOR FULL-COST RECOVERY AND ADMINISTRATIVE OVERHEAD FOR SPECIFIED TYPES OF PLANNING PROJECTS AND RESPONSIBILITIES

On motion of Council Member Hughes, seconded by Council Member Schwartzman, Council approved continuing this item to a future meeting, on roll call by the following vote:

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

B. AMENDMENT OF THE COUNCIL'S RULES OF PROCEDURES REGARDING THE APPOINTMENT PROCESS

Heather McLaughlin reviewed the staff report and Council's options.

Council and Staff discussed Council's previous direction to staff on this item, the options provided by Staff, using the current process without the feedback loop, concerns regarding violating The Brown Act.

Council Members Hughes, Campbell, and Schwartzman discussed support for Council Member Strawbridge's suggested appointment process.

Mayor Patterson discussed asking the Attorney General for an opinion on whether the process where the subcommittee is recommending candidates for appointments is actually taking the role of the appointment process from the Mayor and turning it into something else. Staff clarified that if Council asks the Attorney General for an opinion, they should make it clear that the mayor is free to choose another candidate if they don't like the subcommittee's recommendation.

Council discussed Council Member Strawbridge's suggested process and the Mayor's appointment authority.

Vice Mayor Campbell made a motion to go with Council Member Strawbridge's suggested appointment process, throw in a line about the time and choice of appointment is at the sole discretion of the mayor (appointment would be done at a subsequent meeting to allow time to put it on the agenda), and send the process to the Attorney General for an opinion. Council Member Schwartzman seconded the motion.

Staff clarified that the subcommittee would make its recommendation to the mayor at one meeting, and at a subsequent meeting, the mayor would propose his/her appointment, where the appointment would be agendized.

Public Comment:

None

Staff and the City Clerk clarified that Staff would re-draft the resolution with the changes above and present it at a subsequent meeting. The vote would be on the direction to Staff.

Council and Staff discussed the process for requesting an opinion from the Attorney General. Council majority (4/1) voted to have Staff ask the Assembly Person or the Senate Person if they are willing to take this forward to the Attorney General for Council. Staff will include that in the Consent Item report at the next Council meeting.

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

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes

Noes: (None)

On motion of Mayor Patterson, Council approved the direction to Staff to ask the Assembly Person or the Senate Person if they are willing to take this forward to the Attorney General for Council, on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Campbell

Noes: Hughes

C. RECONSIDER THE CANCELLATION OF THE NOVEMBER 5, 2013 CITY COUNCIL MEETING

Brad Kilger, City Manager, reviewed the staff report.

Council discussed reinstating the 11/5/13 City Council meeting, having the 11/19/13 meeting as planned, and cancelling the 11/26/13 meeting.

Public Comment:

None

On motion of Council Member Strawbridge, seconded by Council Member Hughes, Council approved reinstating the November 5, 2013 City Council meeting, having the November 19th, 2013 meeting as planned, and cancelling the November 26, 2013 meeting, on roll call by the following vote:

Ayes: Patterson, Strawbridge, Schwartzman, Campbell, Hughes

Noes: (None)

IX. ADJOURNMENT:

Mayor Patterson adjourned the meeting at 9:17 p.m.

Lisa Wolfe, City Clerk