

MINUTES OF THE  
REGULAR MEETING – CITY COUNCIL  
November 18, 2014

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

**I. CALL TO ORDER:**

**II. CLOSED SESSION:**

- A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION  
(Subdivision (b) of Government Code Section 54947)  
Title: City Attorney**

**III. CONVENE OPEN SESSION:**

Mayor Patterson called the meeting to order at 7:01 p.m.

**A. ROLL CALL**

All Council Members were present.

**B. PLEDGE OF ALLEGIANCE**

Ernie Gutierrez led the Pledge of Allegiance.

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

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

**A. ANNOUNCEMENTS**

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

The Closed Session was cancelled and continued to the 12/2/14 Council Meeting.

- 2. Openings on Boards and Commissions:**

Arts and Culture Commission  
1 unexpired term  
open until filled

Human Services Board  
1 unexpired term  
open until filled

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

**4. Benicia Arsenal Update**

Update from City Attorney

Staff has been meeting with the property owner's representatives, and they have been working hard on the project. The subcommittee was updated today, and Staff was given more work to do to come up with a plan for addressing the orders.

**B. PROCLAMATIONS**

**1. IN RECOGNITION OF CITY OF BENICIA - A PURPLE HEART CITY**

**C. APPOINTMENTS**

**D. PRESENTATIONS**

**1. PRESENTATION OF A PLAQUE HONORING FORMER BENICIA HIGH SCHOOL TEACHERS/COACHES BARNEY CORRIGAN, GEORGE DROLETTE AND PHIL GOETTEL**

**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, Schwartzman, Campbell, Hughes, Strawbridge

Noes: (None)

**VI. OPPORTUNITY FOR PUBLIC COMMENT:**

**A. WRITTEN COMMENT**

Nine items were received (copies on file).

**B. PUBLIC COMMENT**

**1. Michael Escibosa - Mr. Escibosa discussed the issue of homelessness and homeless veterans.**

2. Leah Shellhorn, Chair, Downtown Business Alliance (DBA) - Ms. Shellhorn discussed the DBA's recognition of veterans last Sunday.
3. Mary Theresa Matthews - Ms. Matthews encouraged people to purchase tickets to the upcoming raffle being hosted by the Soroptimists.

**VII. CONSENT CALENDAR:**

Council pulled items VII.E and VII.I 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, Schwartzman, Campbell, Hughes, Strawbridge

Noes: (None)

- A. APPROVAL OF THE MINUTES OF THE NOVEMBER 4, 2014 CITY COUNCIL MEETING**
- B. AWARD OF PLC REPLACEMENT PROJECT AND SCADA UPGRADES FOR WATER TREATMENT PLANT**

**RESOLUTION 14-130 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA ACCEPTING THE BID FOR THE WATER TREATMENT PLANT PROGRAMMABLE LOGIC CONTROLLER (PLC) REPLACEMENT PROJECT, AWARDING THE CONSTRUCTION CONTRACT TO TELSTAR INSTRUMENTS, INC. OF CONCORD IN THE AMOUNT OF \$101,721, AWARDING A PROFESSIONAL SERVICE CONTRACT WITH DST CONTROLS OF BENICIA IN THE AMOUNT OF \$148,331 FOR SUPERVISORY CONTROL AND DATA ACQUISITION (SCADA) SYSTEM UPGRADES, AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONTRACTS ON BEHALF OF THE CITY**

- C. REVIEW OF OCTOBER WATER REPORT**
- D. ACCEPTANCE OF WATER TREATMENT PLANT INFLUENT IMPROVEMENT PROJECT**

**RESOLUTION 14-131 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA ACCEPTING THE WATER TREATMENT PLANT INFLUENT IMPROVEMENT PROJECT AS COMPLETE, INCLUDING CHANGE ORDER NOS. 1 THROUGH 4, AUTHORIZING THE CITY MANAGER TO SIGN THE NOTICE OF COMPLETION, AND AUTHORIZING THE CITY CLERK TO FILE SAME WITH THE SOLANO COUNTY RECORDER**

**E. MILLS ACT CONTRACTS FOR PROPERTIES AT 153 WEST G STREET AND 180 WEST H STREET**

**RESOLUTION 14-134 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA DIRECTING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A MILLS ACT CONTRACT FOR 153 WEST G STREET IN THE CITY OF BENICIA (14PLN-00033)**

**RESOLUTION 14-135 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA DIRECTING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A MILLS ACT CONTRACT FOR 180 WEST H STREET IN THE CITY OF BENICIA (14PLN-00040)**

Council Member Schwartzman and Staff discussed how the properties were assessed, whether the properties had to be owner-occupied, and the annual \$35,000 threshold limit.

Public Comment:

None

On motion of Council Member Schwartzman, seconded by Council Member Hughes, Council adopted Resolution 14-134, on roll call by the following vote:

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

On motion of Council Member Schwartzman, seconded by Council Member Hughes, Council adopted Resolution 14-135, on roll call by the following vote:

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

**F. PURCHASE AND PLACEMENT OF RESTROOM FACILITY FOR THE DOWNTOWN LITTLE LEAGUE FIELDS**

**RESOLUTION 14-132 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AUTHORIZING THE PURCHASE AND PLACEMENT OF NEW RESTROOM FACILITY FOR THE DOWNTOWN LITTLE LEAGUE FIELDS IN THE AMOUNT OF \$76,792.98 ALLOCATED FROM THE BUILDING MAINTENANCE FUND**

**G. APPROVE THE AGREEMENT BETWEEN THE CITY OF BENICIA AND POLICE MID MANAGERS**

**RESOLUTION 14-133 - A RESOLUTION OF THE CITY COUNCIL OF THE**

**CITY OF BENICIA APPROVING THE AGREEMENT BETWEEN THE CITY OF BENICIA AND POLICE MID MANAGERS**

**H. INTRODUCTION AND FIRST READING OF AN ORDINANCE FOR REASONABLE ACCOMMODATION**

**ORDINANCE 14- - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING TITLE 17 (ZONING) OF THE BENICIA MUNICIPAL CODE BY ADDING CHAPTER 17.132 (REASONABLE ACCOMMODATION) AND AMENDING THE DOWNTOWN MIXED USE MASTER PLAN TO REFERENCE CHAPTER 17.132 (REASONABLE ACCOMMODATION)**

**I. ADOPTING THE ORDINANCE TO JOIN COMMUNITY CHOICE AGGREGATION (CCA) - MARIN CLEAN ENERGY**

**ORDINANCE 14-9 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING THE MARIN CLEAN ENERGY JOINT POWERS AGREEMENT AND AUTHORIZING THE IMPLEMENTATION OF A COMMUNITY CHOICE AGGREGATION PROGRAM**

Council Member Hughes recused himself from the discussion on this item.

Public Comment:

1. Michael Escibosa - Mr. Escibosa spoke in opposition to the proposed ordinance.

Council Member Schwartzman and Staff discussed how businesses and residents could access rebate programs through PG&E and MCE, the HERO program, and how loans through Fannie Mae and Freddie Mac would work with the HERO or California First programs.

On motion of Council Member Schwartzman, seconded by Council Member Strawbridge, Council adopted Ordinance 14-9, on roll call by the following vote:

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

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

**VIII. BUSINESS ITEMS:**

**A. ADOPT THE 2015-2023 DRAFT HOUSING ELEMENT AND INITIAL STUDY/NEGATIVE DECLARATION**

**RESOLUTION 14-136 - A RESOLUTION OF THE BENICIA CITY COUNCIL  
APPROVING THE ADOPTION OF AN INITIAL STUDY/NEGATIVE  
DECLARATION FOR THE 2015-2023 HOUSING ELEMENT AND THE 2015-  
2023 HOUSING ELEMENT**

Amy Million, Principal Planner, introduced the agenda item.

Lisa Wise, Lisa Wise Consulting, reviewed the staff report.

Initial Study and Negative Declaration:

Public Comment:

None

Mayor Patterson and Staff discussed how the City is using existing California State Law and CEQA, and the issue of noise.

Housing Element:

Council Member Hughes and Staff discussed the City's allocation, allocations within the Lower Arsenal and Industrial Park, and how to avoid the "airport syndrome".

Public Comment:

None

Amy Million, Principal Planner, discussed the written comments received from Dana Dean (copies on file).

Mayor Patterson and Staff discussed the possibility of removing the four parcels for transitional housing.

Council Member Hughes requested Ms. Dean's comments regarding the DTSC be incorporated in the document.

On motion of Council Member Hughes, seconded by Council Member Schwartzman, Council adopted Resolution 14-136, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge

Noes: (None)

**B. INTRODUCTION AND FIRST READING OF AN ORDINANCE FOR TRANSITIONAL HOUSING, SUPPORTIVE HOUSING AND EMERGENCY HOMELESS SHELTERS**

**ORDINANCE 14- - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING TITLE 17 (ZONING) BY ADDING A DEFINITION (TARGET POPULATIONS) TO SECTION 17.12.030 (DEFINITIONS) OF CHAPTER 17.12, ADDING NEW USE CLASSIFICATIONS TO SECTIONS 17.16.030 AND 17.16.040 (SUPPORTIVE HOUSING, TRANSITIONAL HOUSING, AND EMERGENCY SHELTER, RESPECTIVELY) OF CHAPTER 17.16, AMENDING SECTION 17.24.020 (RS, RM, AND RH DISTRICTS-LAND USE REGULATIONS) OF CHAPTER 17.24 (RESIDENTIAL DISTRICTS) TO ADD THE NEW LAND USE CLASSIFICATIONS (EMERGENCY SHELTER, SUPPORTIVE HOUSING AND TRANSITIONAL HOUSING), AMENDING SECTION 17.28.020 (CC, CO, CG, AND CW DISTRICTS – LAND USE REGULATIONS) OF CHAPTER 17.28 TO ADD A NEW LAND USE CLASSIFICATION (EMERGENCY SHELTER), AMENDING SECTION 17.36.030 (LAND USE REGULATIONS) OF CHAPTER 17.36 TO ADD NEW LAND USE CLASSIFICATIONS (SUPPORTIVE HOUSING AND TRANSITIONAL HOUSING), AMENDING SECTION 17.40.030 (LAND USE REGULATIONS) OF CHAPTER 17.40 TO ADD NEW LAND USE CLASSIFICATION (EMERGENCY SHELTER), ADDING SECTION 17.70.390 (EMERGENCY SHELTER) TO CHAPTER 17.70 (SITE REGULATIONS), AMENDING SECTION 17.46.010 (SCHEDULE S-1, SUMMARY OF LAND USE REGULATIONS), AMENDING SECTION 17.74.030 (OFF-STREET PARKING AND LOADING REGULATIONS) TO ESTABLISH PARKING STANDARDS FOR SUPPORTIVE HOUSING, TRANSITIONAL HOUSING, AND EMERGENCY SHELTERS, AMENDING SECTION 17.108.020 REGARDING DESIGN REVIEW FOR EMERGENCY SHELTERS, AND AMENDING THE DOWNTOWN MIXED USE MASTER PLAN, CHAPTER 4: FORM BASED CODES, TO DEFINE AND ADD SUPPORTIVE HOUSING AND TRANSITIONAL HOUSING AS PERMITTED USE CLASSIFICATIONS IN ALL DOWNTOWN DISTRICTS**

Suzanne Thorsen, Associate Planner, reviewed the staff report.

Council Member Hughes and Staff discussed whether the City needs to include the sites in the Lower Arsenal (it does not), and the issue of transitional and supportive housing.

Council took a 5-minute break to clarify whether any Council Members had a conflict of interest. Heather McLaughlin, City Attorney confirmed all Council Members could participate in the discussion.

Public Comment:

1. Marilyn Bardet - Ms. Bardet discussed concerns regarding the issue of 'housing' in the Arsenal, as it is a public safety issue.
2. Jim Triplett - Mr. Triplett asked for clarification on the issue of residential housing in the Lower Arsenal within the premise of tonight's conversation.

Council Member Hughes and Staff discussed letters sent in by the Benicia Industrial Park Association (BIPA) regarding the propriety of housing in the Benicia Industrial Park, Ms. Dean's proposed language amendments regarding design review exemption as it relates to a historic district, and Ms. Bardet's comments regarding Department of Toxic Substance Control (DTSC).

Council Member Hughes made a motion to introduce the Ordinance including the clarification language on design review as suggested by Ms. Dean.

On motion of Council Member Hughes, 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, Schwartzman, Campbell, Hughes, Strawbridge  
Noes: (None)

**C. APPROVAL OF THE UPDATED TRAFFIC IMPACT FEE PROGRAM**

**RESOLUTION 14-137 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING THE UPDATE TO THE TRAFFIC IMPACT FEE PROGRAM AND AUTHORIZING ASSOCIATED FEE ADJUSTMENTS**

Mike Roberts, Principal Civil Engineer, reviewed the staff report.

Public Comment:

None

On motion of Council Member Hughes, seconded by Council Member Strawbridge, Council adopted Resolution 14-137, on roll call by the following vote:

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

**D. CONSIDERATION OF WAIVING THE ATTORNEY-CLIENT PRIVILEGE FOR THE OPINION REGARDING MAYOR PATTERSON AND THE CRUDE BY RAIL PROJECT**

Heather McLaughlin, City Attorney, briefly reviewed the staff report.

Mayor Patterson read a prepared statement regarding her position on this item.

Vice Mayor Campbell discussed his and Mayor Patterson's similar voting styles. He addressed the negative comments that were made regarding the City Attorney. He was disgusted with the way Ms. McLaughlin has been treated over this issue.

Council Member Hughes discussed the overall issue of someone recusing themselves from an issue. He discussed his recent recusal from the MCE issue. He echoed Vice Mayor Campbell's comments regarding Ms. McLaughlin's performance.

Public Comment:

1. Michael Escibosa - Mr. Escibosa discussed the need for the Federal Government to make the decision on the Valero Crude by Rail issue, not the City Council.
2. Roger Straw - Mr. Straw read a letter written by Bob Berman (copy on file), supporting waiving the attorney-client privilege in this matter.
3. Andres Soto - Mr. Soto spoke in support of waiving the attorney-client privilege in this matter.
4. Marilyn Bardet - Ms. Bardet spoke in support of waiving the attorney-client privilege in this matter.

Council Member Hughes discussed his reasons for seeking an opinion from the City Attorney on whether Mayor Patterson had a conflict of interest.

Council Member Strawbridge discussed her reasons for seeking an opinion from the City Attorney on whether Mayor Patterson had a conflict of interest.

Council Member Schwartzman discussed support for waiving the attorney-client privilege.

Mayor Patterson discussed the issue of a material conflict of interest, the fact that there is not codification of bias, and her duty as mayor.

Council Member Schwartzman asked for a point of order. He asked the City Attorney if the Mayor's comments were off topic. Ms. McLaughlin clarified that the discussion should stay on the topic of waiving attorney-client privilege.

Mayor Patterson clarified that she was discussing the definition of conflict of interest.

On motion of Vice Mayor Campbell, seconded by Council Member Schwartzman, Council approved waiving the attorney-client privilege for the opinion regarding Mayor Patterson and the Crude by Rail Project, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge

Noes: (None)

**E. Council Member Committee Reports:**

- 1. Mayor's Committee Meeting.(Mayor Patterson) Next Meeting Date: December 17, 2014**
- 2. Association of Bay Area Governments (ABAG)<http://www.abag.ca.gov/>. (Mayor Patterson and Council Member Strawbridge) Next Meeting Date: TBD**
- 3. Finance Committee. (Vice Mayor Campbell and Council Member Strawbridge)Next Meeting Date: November 20, 2014**
- 4. League of California Cities. (Mayor Patterson and Vice Mayor Campbell) Next Meeting Date: TBD**
- 5. School Liaison Committee. (Council Members Strawbridge and Council Member Hughes) Next Meeting Date: December 4, 2014**
- 6. Sky Valley Open Space Committee. (Vice Mayor Campbell and Council Member Schwartzman) Next Meeting Date: TBD**
- 7. Solano EDC Board of Directors. (Mayor Patterson and Council Member Strawbridge) Next Meeting Date: December 11, 2014**
- 8. Solano Transportation Authority (STA). <http://www.sta.ca.gov/> (Mayor Patterson and Council Member Schwartzman) Next Meeting Date: December 10, 2014**
- 9. Solano Water Authority-Solano County Water Agency and Delta Committee. <http://www.scwa2.com/>(Mayor Patterson and Council Member Hughes) Next Meeting Date: December 11, 2014**
- 10. Traffic, Pedestrian and Bicycle Safety Committee. (Vice Mayor Campbell and Council Member Schwartzman) Next Meeting Date: January 15, 2015**

11. **Tri-City and County Cooperative Planning Group. (Mayor Patterson and Council Member Strawbridge) Next Meeting Date: December 8, 2014**
12. **Valero Community Advisory Panel (CAP). (Mayor Patterson and Council Member Hughes) Next Meeting Date: TBD**
13. **Youth Action Coalition. (Mayor Patterson, Council Member Strawbridge and Council Member Hughes) Next Meeting Date: December 5, 2014**
14. **ABAG-CAL FED Task Force-Bay Area Water Forum. <http://www.baywaterforum.org/> (Mayor Patterson) Next Meeting Date: TBD**
15. **SOLTRANS Joint Powers Authority (Mayor Patterson, Council Member Mark Hughes and Council Member Schwartzman) Next Meeting Date: November 20, 2014**

**IX. ADJOURNMENT:**

Mayor Patterson adjourned the meeting at 9:46 p.m.

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Lisa Wolfe, City Clerk